Employee Benefits and Policies
**CONTINUATION COVERAGE RIGHTS UNDER COBRA**

**Introduction**

You are receiving this notice because you have recently become covered under a group health plan (the Plan). This notice contains important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the Plan. This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it.

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you when you would otherwise lose your group health coverage. It can also become available to other members of your family who are covered under the Plan when they would otherwise lose their group health coverage. For additional information about your rights and obligations under the Plan and under federal law, you should review the Plan’s Summary Plan Description or contact the Plan Administrator.

**What is COBRA Continuation Coverage?**

COBRA continuation coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a “qualifying event.” Specific qualifying events are listed later in this notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a “qualified beneficiary.” You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the Plan is lost because of the qualifying event. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.
If you are an employee, you will become a qualified beneficiary if you lose your coverage under the Plan because either one of the following qualifying events happens:

- Your hours of employment are reduced, or
- Your employment ends for any reason other than your gross misconduct.

If you are the spouse of an employee, you will become a qualified beneficiary if you lose your coverage under the Plan because any of the following qualifying events happens:

- Your spouse dies;
- Your spouse’s hours of employment are reduced;
- Your spouse’s employment ends for any reason other than his or her gross misconduct;
- Your spouse becomes entitled to Medicare benefits (under Part A, Part B, or both); or
- You become divorced or legally separated from your spouse.

Your dependent children will become qualified beneficiaries if they lose coverage under the Plan because any of the following qualifying events happens:

- The parent-employee dies;
- The parent-employee’s hours of employment are reduced;
- The parent-employee’s employment ends for any reason other than his or her gross misconduct;
- The parent-employee becomes entitled to Medicare benefits (Part A, Part B, or both);
- The parents become divorced or legally separated; or
- The child stops being eligible for coverage under the plan as a “dependent child”.

Sometimes, filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to the Town of Riverhead, and that bankruptcy results in the loss of coverage of any retired employee covered under the Plan, the retired employee will become a qualified beneficiary with respect to the bankruptcy. The retired employee’s spouse, surviving spouse, and dependent children will also become qualified beneficiaries if bankruptcy results in the loss of their coverage under the Plan.
When is COBRA Coverage Available?

The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. When the qualifying event is the end of employment or reduction of hours of employment, death of the employee, commencement of a proceeding in bankruptcy with respect to the employer, or the employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), the employer must notify the Plan Administrator of the qualifying event.

You Must Give Notice of Some Qualifying Events

For the other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you must notify the Plan Administrator within 60 days after the qualifying event occurs. You must provide this notice to: Meg Ferris, Personnel Officer, Town of Riverhead, 200 Howell Avenue, Riverhead, NY 11901.

How is COBRA Coverage Provided?

Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children.

COBRA continuation coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, the employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), your divorce or legal separation, or a dependent child's losing eligibility as a dependent child, COBRA continuation coverage lasts for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. For example, if a covered employee becomes entitled to Medicare 8 months before the date on which his employment terminates, COBRA continuation coverage for his
spouse and children can last up to 36 months after the date of Medicare entitlement, which is equal to 28 months after the date of the qualifying event (36 months minus 8 months). Otherwise, when the qualifying event is the end of employment or reduction of the employee’s hours of employment, COBRA continuation coverage generally lasts for only up to a total of 18 months. There are two ways in which this 18-month period of COBRA continuation coverage can be extended.

Disability extension of 18-month period of continuation coverage

If you or anyone in your family covered under the Plan is determined by the Social Security Administration to be disabled and you notify the Plan Administrator in a timely fashion, you and your entire family may be entitled to receive up to an additional 11 months of COBRA continuation coverage, for a total maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage.

Second qualifying event extension of 18-month period of continuation coverage

If your family experiences another qualifying event while receiving 18 months of COBRA continuation coverage, the spouse and dependent children in your family can get up to 18 additional months of COBRA continuation coverage, for a maximum of 36 months, if notice of the second qualifying event is properly given to the Plan. This extension may be available to the spouse and any dependent children receiving continuation coverage if the employee or former employee dies, becomes entitled to Medicare benefits (under Part A, Part B, or both), or gets divorced or legally separated, or if the dependent child stops being eligible under the Plan as a dependent child, but only if the event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred.

If You Have Questions

Questions concerning your Plan or your COBRA continuation coverage rights should be addressed to the contact or contacts identified below. For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor’s Employee Benefits Security Administration.
(EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA’s website.)

**Keep Your Plan Informed of Address Changes**

In order to protect your family’s rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

**Plan Contact Information**

Meg Ferris
Town Personnel Officer
Town of Riverhead
200 Howell Avenue
Riverhead, NY  11901 (631)727-3200, ex. 603
The Town of Riverhead Computer Policy

The Town of Riverhead’s computer system exists to facilitate the official work of the Town. This system is meant to contribute broadly to the missions of the Town government. To ensure that its computer resources are used properly by its employees, independent contractors, agents and other users, the Town of Riverhead has created and implemented this Computer Use Policy ("Policy").

The rules and obligations described in the Policy apply to all users ("Users") (as defined herein) of Town of Riverhead’s computer Resources ("Resources") (as defined herein), wherever the user or Resources may be located. Violations of the Policy could result in appropriate disciplinary action pursuant to employment contract(s). A copy of this signed agreement will be filed with each employee's personnel records and a copy made available for the employee upon request.

Every User must use the Town’s computer Resources responsibly, professionally, ethically and lawfully. Management reserves all rights to determine what constitutes responsible, professional, ethical and lawful use of Town Resources.

DEFINITIONS

From time to time in this Policy we refer to terms that require definitions:

*The term Resources* refers to the Town’s computer network and all appurtenances and subsystems thereto, including, but not limited to: host computers, desktop computers, file servers, application servers, communication servers, mail servers, fax servers, web servers, workstations, stand-alone computers, laptops, software, data files, and all internal and external computer and communications networks (for example, Intranets, Internet commercial online services, value-added networks, e-mail systems, etc.), that may be accessed directly or indirectly from Town’s computer network.

The term *Users* refers to all employees, independent contractors, consultants, temporary workers, student interns and other persons or entities who use Town Computer Resources either with or without permission.
POLICY
Proper Use of Resources: All Users shall fully comply with the following standards regarding computer resources. These rules and regulations are in addition to any other applicable rules, obligation or duties that govern the employee's conduct. In general, the User is responsible for all uses of any computer resource provided to the User by the Town. These responsibilities include, but are not limited to, knowledge of the following understandings and conditions of use:

A. No Expectation of Privacy

Notice.
The computers and computer accounts given to Users are to assist them in performance of their jobs. Users do not have an expectation of privacy in anything they create, store, send or receive on the computer system. Pursuant to the Electronics Communications Act of 1986 (USC 2510 et seq.) notice is hereby given that there are NO facilities provided by this system (the Town’s system) for sending or receiving private or confidential electronic information. While the Town will make every effort within its resources to prevent unauthorized access, it does not guarantee against unauthorized access unless otherwise stated herein. The computer resources belong to the Town and are to be used only to conduct Town business. The Town reserves the right to monitor and log network use (or use of Town resources).

Waiver of privacy rights.
Users expressly waive any right of privacy they may have in anything they create, store, send, or receive on the computer or through the Internet, Intranet or any other computer network. Users consent to allowing the Financial Administrator and/or Town Attorney to access and review all materials Users create, store, send, or receive on the computer or though the Internet, Intranet or any other computer network. Users understand that the Town may use human or automated means to monitor use of its Computer Resources.

B. Prohibited Activities

Prohibited Uses.
Unless otherwise stated herein, the Town's Computer Resources may not be used for the conduct of non-Town business, dissemination or storage of commercial or personal advertisements, private commercial enterprise,
solicitations, promotions, destructive programs (that is, viruses or self-replicating code), political material, or any other unauthorized use.

**Inappropriate or unlawful material.**
Material that is fraudulent, sexually explicit, profane, obscene, intimidating, defamatory, harassing, discriminatory, offensive or is otherwise unlawful or inappropriate may not be sent by e-mail or other forms of electronic communication (such as bulletin board systems, newsgroups, chat groups), or displayed on or stored in Town Resources. Users receiving this kind of material must have the right to report receipt of any inappropriate or unlawful material or item(s) perceived as inappropriate or unlawful material or in violation of any provision of this policy, as defined herein, to their supervisors who shall refer the complaint to its committee. The Town Board reserves all rights to determine what constitutes inappropriate or unlawful material.

**Misuse of Software.**
Without prior written authorization, Users may not do any of the following: (1) copy software supplied by the Town for use on their home computers; (2) provide copies of software supplied by the Town to any independent contractors or clients of the Town or to any third person; (3) modify, revise, transform, recast or adapt any software supplied by the Town; or (4) reverse-engineer, disassemble, or decompile any software supplied by the Town. Users who become aware of any misuse of software or violation of copyright law must immediately report the misuse of software or violation of copyright law to their supervisors.

The equipment, both hardware and software, is provided to employees and persons legitimately affiliated with the Town government for the efficient exchange of information and the completion of assigned responsibilities and tasks consistent with the Town’s statutory purposes.

The use of this computer system including hardware and software, the use of the electronic mail (e-mail) system, and the use of the global Internet facilities and services by any employee or other person authorized by the Town must be consistent with this Policy.

Authorized users of the Town of Riverhead’s computer system and all of its functions and uses are required:
1. To respect the privacy of other users; for example, users shall not intentionally seek information on, obtain copies of, or modify files or data, belonging to other users, unless explicit permission to do so has been obtained.

2. To respect the legal protections provided to programs and data by copyright and license.

3. To protect data from unauthorized use or disclosure as required by NYS and federal laws and Town regulations.

4. To respect the integrity of computing systems; for example, users shall not use or develop programs that harass other users or infiltrate a computer or computing system and/or damage or alter the software components of a computer or computing system.

**Passwords**

**Responsibility for passwords**

Users are responsible for safeguarding their passwords for access to the computer system. Individual passwords should not be printed, stored online, or given to others. Users are responsible for all transactions made using their passwords. No User may access the computer system with another User's password or account. Users who have reason to believe their password has been stolen or compromised must immediately report such belief to their supervisor.

Any user changes of passwords must be reported to the System Administrator. Accounts and passwords are normally assigned to single users and are not to be shared with any other person without authorization. Users are expected to report any observations of attempted security violations.

**Passwords do not imply privacy.**

Use of passwords to gain access to the computer system or to encode particular files or messages does not imply that Users have an expectation of privacy in the material they create or receive on the computer system. The Town has global passwords that permit it access to all material stored on its computer system regardless of whether that material has been protected with a particular User's password.
C. Security

Accessing other User's files.
Users may not change or copy a file belonging to another User without first obtaining permission from the owner of the file. Ability to read, change, or copy a file belonging to another user does not imply permission to read, change, or copy that file. Users may not use the computer system to "snoop" or pry into the affairs of other Users by unnecessarily reviewing the files and e-mail of other users.

Accessing other computers and networks.
A User's ability to connect to other computer systems through the network, Intranet, Internet or by a modem does not imply a right to connect to those systems or to make use of those systems unless specifically authorized by the administrators of those systems.

Privileged Attorney-Client Communications.
Confidential e-mail sent from or to any attorney representing the Town should include this warning header on each page "ATTORNEY-CLIENT PRIVILEGED: DO NOT FORWARD WITHOUT PERMISSION FROM ATTORNEY."

Compliance with Applicable Laws and Licenses.
In their use of Resources, Users must comply with all software licenses, copyrights and all other state, federal and international laws governing intellectual property and online activities.

Amendments and Revisions.
This Policy may be amended or revised by management from time to time as the need arises. Users will be provided with copies of all amendments and revisions.

Questions on Resource Use:
Questions about specific resource uses not covered in this policy should be directed to your supervisor.

Removal of Accounts or privileges.
The Town reserves the right to remove a User account and/or eliminate or restrict User privileges at any time without notification.
Town of Riverhead Rights

1. Pursuant to the Electronic Communications Privacy Act of 1986 (18USC 2510 et seq.), notice is hereby given that there are NO facilities provided by this system for sending or receiving private or confidential electronic communications. The Town’s System Administrators may have access to all mail and user requests, but will monitor messages to ensure appropriate use upon receiving a complaint from a department head or other supervisory personnel that there is reasonable suspicion that the Policy is being violated. Employee’s electronic files and “deleted” e-mail messages may be reviewed with or without use of a password. Electronic files and messages relating to or in support of illegal activities will be reported to the appropriate authorities.

2. The Town reserves the right to log network use and monitor file server space utilization by users and assumes no responsibility or liability for files deleted due to violation of file server space allocation.

3. The Town reserves the right to remove a user and/or password from the network.

4. The Town’s computer system, both hardware and software electronic files and documents and everything in this system are the property of the Town and should be used for Town business only. Only programs and applications licensed to the Town may be used in this system.

5. Employees and authorized users should only disclose information or messages from the system including e-mail to other employees and authorized users. E-mail information is limited to those individuals with a need to know. The Town reserves the right to monitor the e-mail system to ensure that:
   a) it is being used for business purposes only
   b) the Town’s policies on harassment are being followed, and
   c) information can be accessed when an employee is unavailable.

Users of the e-mail system should remove personal and transitory messages from personal in-boxes on a regular basis and regularly transfer official records to the Records Mgt. Officer for the required retention periods. Any messages kept in the e-mail system may be subject to FOIL requests and may be discoverable in legal proceedings.
Enforcement and Violation

This policy is intended to be illustrative of the range of acceptable and unacceptable use of the Town’s computer system and is not necessarily exhaustive. Questions about specific uses related to security issues not enumerated in this policy statement and reports of specific unacceptable uses should be directed to the Financial Administrator and/or the Town Attorney, with a copy to the Unit President and/or designee. Other questions about appropriate use should be directed to the appropriate department head.

The Town of Riverhead will review alleged violations of this Policy on a case-by-case basis. Apparent violations of this Policy will result in referral for disciplinary actions, pursuant to Civil Service Law Section 75, as applicable and as appropriate.

All users are required to have a signed copy of this document on file with Personnel prior to using the Town’s computer resources.
TABLE OF CONTENTS

1. Labor Contracts (CSEA, SOA)

2. Family and Medical Leave
   FMLA Policy
   FMLA Fact Sheet
   FMLA Instructions

3. Drug Free Workplace Policy

4. Drug and Alcohol Testing Policy

5. Employee Anti-Alcohol Training Manual


7. Right To Know Policy

8. COBRA Supplement

9. Sexual and Other Forms of Harassment Town Policy
   Complaint Form

10. Section 125 Policy

11. Computer Policy

12. No Smoking Policy

13. NYSLRS Booklet

14. METLIFE Dental/Optical Benefits
LABOR CONTRACT

Between the

Town of Riverhead

And the

Civil Service Employees Association

Local 1000, AFSCME,AFL-CIO

2011-2014

Town of Riverhead Unit of Suffolk Local 852
<table>
<thead>
<tr>
<th>ARTICLE</th>
<th>TITLE</th>
<th>PAGE #</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>DURATION……………………..</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>RECOGNITION……………………</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>HOURS OF WORK………………….</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Basic Work Week………………….</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Overtime ………………………</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Holidays ........................</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Personal Leave ………………….</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Parentage Leave………………..</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Funeral Leave …………………..</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Military Leave …………………</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Jury Services …………………..</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Court Appearance………………</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Miscellaneous ………………….</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Night Differential……………</td>
<td>9</td>
</tr>
<tr>
<td>4</td>
<td>VACATIONS …………………….</td>
<td>10</td>
</tr>
<tr>
<td>5</td>
<td>SICK LEAVE …………………….</td>
<td>12</td>
</tr>
<tr>
<td>6</td>
<td>SENIORITY …………………….</td>
<td>15</td>
</tr>
<tr>
<td>7</td>
<td>EMPLOYEE PROTECTION ………..</td>
<td>16</td>
</tr>
<tr>
<td>8</td>
<td>GRIEVANCE PROCEDURE ………..</td>
<td>17</td>
</tr>
<tr>
<td>9</td>
<td>PENSION AND LONGEVITY………</td>
<td>20</td>
</tr>
<tr>
<td>10</td>
<td>HEALTH INSURANCE …………….</td>
<td>21</td>
</tr>
<tr>
<td>11</td>
<td>MANAGEMENT RIGHTS……………</td>
<td>25</td>
</tr>
<tr>
<td>12</td>
<td>GENERAL PROVISIONS ………….</td>
<td>26</td>
</tr>
<tr>
<td>13</td>
<td>SAFETY INCENTIVE BONUS……..</td>
<td>30</td>
</tr>
<tr>
<td>14</td>
<td>WORKERS’ COMPENSATION ….….</td>
<td>31</td>
</tr>
<tr>
<td>15</td>
<td>JOB CLASSIFICATION &amp; SALARY</td>
<td>32</td>
</tr>
<tr>
<td>16</td>
<td>WAGES …………………….</td>
<td>32</td>
</tr>
<tr>
<td>17</td>
<td>DRESS CODE………………….</td>
<td>35</td>
</tr>
<tr>
<td>18</td>
<td>DRUG AND ALCOHOL TESTING…</td>
<td>36</td>
</tr>
</tbody>
</table>
AGREEMENT made and entered in this 17th day of February 2011 between THE TOWN OF RIVERHEAD, County of Suffolk, State of New York, hereinafter referred to as the “Town” and the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, Riverhead Unit of the Suffolk Local #852 having its principal office at 3 Garet Place, Commack, County of Suffolk, State of New York, hereinafter referred to as the “CSEA.”

W I T N E S S E T H

WHEREAS, it is the intention and purpose of the parties to this Agreement to promote and continue harmonious relations between the Town and its employees, and to provide a procedure for the prompt, peaceful, and equitable adjustment of differences which may arise from time to time between the Town and its employees to the end that there shall be no interference with the orderly government of the Town during the term of this Agreement, and

WHEREAS, this Agreement succeeds an Agreement between the parties, last dated February 19, 2009, which agreement is hereby superseded to the extent that the terms thereof are not specifically set forth in this Agreement, and

WHEREAS, this Agreement has been negotiated by the parties in conformity with the terms and conditions of the Civil Service Law of the State of New York, and those negotiations and Agreements have been reduced to writing in this Agreement, which cannot be, in whole or in part, amended orally by the parties.

NOW, THEREFORE, IT IS AGREED:

ARTICLE 1

DURATION

1. This Agreement shall be effective as of January 1, 2011 and shall continue in full force and effect until and including the 31st day of December 2014.

2. In the event that the negotiations for a contract effective January 1, 2015, fail to result in an Agreement before the expiration of this Agreement, this Agreement shall remain in full force and effect until the execution of a new Agreement. All provisions of the Civil Service Law of the State of New York are deemed to be incorporated herein, and in the event any provisions are contrary to the Civil Service Law of the State of New York, then that law shall prevail.

3. IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW
OR BY PROVIDING THE ADDITIONAL FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

**ARTICLE 2**

**RECOGNITION**

1. The Town recognizes the Civil Service Employees Association, Local 1000, AFSCME, AFL-CIO, Riverhead Unit of Suffolk Local # 852 (“the CSEA”), as the sole and exclusive representative for all full-time employees and regular part-time employees of the Town, who, after 12 months’ continuous service and both during and after the 12 month period, work a minimum of 10 hours per week, except elected and appointed public officers, department heads, confidential employees including Secretary to the Town Supervisor, Assistant to the Town Supervisor, Secretary to the Town Attorney, Secretarial Assistant to the Town Board, Secretary to the Highway Superintendent, Assistant Water District Superintendent, Deputy Town Engineers, and, effective October 7, 2008, Senior Waste Water Treatment Plant Operator Tim Allen, and employees represented by the Riverhead Police Benevolent Association, Inc. and the Riverhead Town Police Superior Officers Benevolent Association, Inc. and any title designated managerial and/or confidential by PERB. This recognition is for the period of this contract or extensions thereof and is for the purpose of collective bargaining and employee labor relations as the same are defined in the New York State Civil Service Law.

2. The Suffolk Local CSEA and the Riverhead Unit of that Local affirms that it does not assert the right to strike against the Town, to assist or participate in any strike, picket, job action, or any work slowdown, or to impose an obligation upon its members to conduct or to participate in any strike.

3. The Town recognizes the right of the employees to designate the Unit President or his/her designee and/or Unit Vice President to appear on their behalf to discuss salaries, working conditions, grievances, and disputes relative to the terms and the conditions of this agreement and to visit employees during working hours. The parties mutually agree that the time the Unit President or his/her designee and/or Unit Vice President spends away from his/her job duties shall be devoted to the prompt handling of legitimate grievances and the Unit President or his/her designee and/or Unit Vice President will work at his/her assigned job duties at all times except when necessary to leave his/her work to handle grievances as provided herein. In addition, the Unit President’s or his/her designee and/or Unit Vice President’s activities shall not disrupt the orderly and smooth operation of Town government.
4. The Town will make available Town facilities for CSEA meetings upon notice and approval of the Town Supervisor and/or his/her designee.

5. The Town will supply to the Unit President a list of all employees in the bargaining unit, showing the employee’s full name, job title, department, membership status, insurance deduction and first date of employment. This information will be provided to the President on an annual basis.

6. The CSEA shall have exclusive rights to payroll deduction of dues and union sponsored insurance and benefit program premiums for unit members. Those dues and premiums shall be remitted to the Civil Service Employees Association, Inc., 143 Washington Avenue, Albany, New York 12210 on a payroll basis. The CSEA shall indemnify and save and hold the Town and any and all of its employees, representatives, officers and/or members of the Town Board (collectively “employees”) harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any action taken or not taken by the Town or any of its employees for the purpose of complying with the agency fee, dues and premiums deduction provisions of this agreement and/or State Law. In addition, the CSEA shall reimburse the Town for any and all legal expenses associated with the defense of any such claim, demand or suit.

The Town agrees to deduct from the salaries of its employees’ membership dues and/or life, sickness and accident deductions for the CSEA from those employees who voluntarily and individually authorize the Town Board to deduct and to transmit the moneys to the CSEA. Employee authorizations shall be in writing and deductions so made uniformly and consistently in each pay period. Those funds collected shall be transmitted to the Treasurer of the CSEA, Inc. each month. Deductions authorized by any employee shall continue as authorized until the employee notifies the Town in writing to discontinue same or to change the authorization. Notification of discontinuance or change in authorization shall be in writing and submitted to the Town in duplicate, one copy of which shall be forwarded to the Unit Treasurer of the CSEA. The CSEA assumes full responsibility for the disposition of the deducted funds once they are turned over to the CSEA.

**ARTICLE 3**

**HOURS OF WORK**

1. Basic Work Week

   a. The basic workweek for all “Administrative” and “Clerical and Supervisory” employees shall be 35 hours.
b. The basic workweek for “Operational and Technical” employees shall be 40 hours.

c. The basic workweek for Sewer and Water personnel may be varied at Town Board discretion, but at no time shall the accumulated hours in the two week pay period be less than 80 hours.

d. The basic workweek for Sanitation personnel may vary at Town Board discretion, but at no time shall the accumulated hours in the two week pay period be less than 73.5 hours.

e. The basic workday for “Public Safety Dispatcher” employees shall be eight hours. The work year shall consist of 255 days.

f. Lunch period for the above classes of employees is not considered part of the working day.

g. The workweek for regular, part-time employees shall not exceed 20 hours for noncompetitive positions and 17.5 hours for competitive positions, exclusive of lunch periods. Part-time employees become regular, part-time employees after 12 months’ continuous service and both during the 12 month period and after must work a minimum of 10 hours per week.

2. Overtime

a. All permanent, full-time employees shall be compensated for hours worked in excess of the workday at time and one-half.

b. Employees who are called in to work during non-regularly scheduled work hours, on an approved day off (excluding regular days off), shall be compensated at the rate of time and one-half the regular rate of pay for each of those hours actually worked if the employee is charged for the day. Employees who are called in to work during regularly scheduled work hours, on an approved day off (excluding regular days off), shall be compensated at the regular rate of pay for each of those hours actually worked and shall be permitted to reschedule the hours worked on another mutually agreeable day within the employee’s pay week, or to reschedule the time on another mutually agreeable day outside of that pay week at the rate of one and one-half times the number of hours worked.

c. Flex Time

A full time employee and his/her department head, upon their mutual consent, as well as the approval of the Town Supervisor and CSEA President or their designees, may flex the employee’s work hours
within the employee’s defined workweek, provided that the impact upon the Town is cost-neutral.

3. **Holidays.** Holidays are to be as follows:

   - New Year’s Day
   - Martin Luther King’s Birthday
   - Washington’s Birthday
   - Memorial Day
   - Veteran’s Day
   - Good Friday or Easter Sunday
   - Independence Day
   - Labor Day
   - Columbus Day
   - Election Day
   - Thanksgiving Day
   - Day after Thanksgiving
   - Christmas Day

If any of these holidays fall on Sunday, except for Easter Sunday, the following Monday shall be observed. If the holiday falls on Saturday, the preceding Friday shall be observed. Employees who are required to work on these holidays will receive compensation at the rate of time and one-half for all hours worked in addition to their regular holiday pay. If a full-time employee in the Water, Waste Water or Police Departments who regularly works a non-traditional work week is on a regular day off on a regularly scheduled holiday, the employee may continue to carry that holiday as a compensatory day, or be paid at straight time.

4. **Personal Leave**

   a. Thirty-five hours of personal leave for “Administrative” and “Clerical and Supervisory” employees and 40 hours of personal leave for “Operational and Technical” and “Public Safety Dispatchers” shall accrue to each employee during each calendar year (January 1 to December 31) on the basis of his/her employment anniversary as set forth in the following subparagraph.

   b. For the purpose of this paragraph, all employees shall be deemed to have the same employment anniversary date: January 1. An employee appointed during the first six months of a year (January 1 to June 30) shall be deemed to have been hired on January 1\(^1\) of that year. An employee appointed during the second six months of a year (July 1 to December 31\(^1\)) shall be deemed to have been hired on January 1 of the year subsequent to his/her appointment. Employees hired in the second six months of a year shall not be entitled to five days for the balance of that subsequent calendar year.

   c. Regular, part-time employees are not entitled to personal leave.

   d. Personal leave may be accumulated with a maximum accumulation of 105 hours for “Administrative” and “Clerical and Supervisory”
employees and 120 hours for “Operational and Technical” and “Public Safety Dispatchers.” At no point in time may an employee’s accumulation exceed the maximum accumulation. The Town shall not unreasonably withhold its approval that the cap may be exceeded where the excess is directly attributable to a Town-approved workers’ compensation leave of absence. Unused personal leave may not be converted to sick time.

e. Personal leave shall not be used for the purpose of vacation, holidays, or extensions thereof, or for extension of weekends.

f. Personal leave must be approved by the department head, and the employee must request this leave at least 48 hours in advance unless the personal leave is deemed to be an emergency of which the employee had no prior knowledge. An employee absent due to emergency personal leave must notify his/her supervisor of the absence within the first half-hour of his/her working day or shift. Failure to notify his/her supervisor of his/her absence will result in loss of pay for the day’s absence.

g. No employee shall be required to use accrued personal leave time prior to the use of accrued vacation time.

5. Parentage Leave

An employee, with one year’s employment, may be granted a leave of absence without pay not to exceed 12 months, without extension, during a 21 month window, from nine months before the expected birth or adoption to twelve months after the birth or adoption. This leave shall apply equally to both mother and father of the child, but may not apply to a provisional employee (Civil Service Requirements). The employee shall be reinstated in the same or comparable position.

6. Funeral Leave

a. Permanent full-time annual salaried employees shall be entitled to funeral leave without charge against accumulated vacation, sick leave and/or personal leave.

b. Employees shall be entitled to four consecutive working days’ leave of absence computed either from the day of death or the day following death at the employee’s option, for death of the employee’s spouse, child (including adopted children), father, mother, brother, sister, parents-in-law, grandparents-in-law, grandparents, grandchildren, daughter-in-law, son-in-law, brother-in-law, sister-in-law or stepchild.
c. Inclusion of any other members of family shall not be permitted for funeral leave. The Supervisor, in his/her sole, non-reviewable discretion, may grant one day paid leave to attend the funeral of any other members of the employee’s family.

7. Military Leave

Military leaves of absence shall be granted in accordance with law.

8. Jury Services

Employees, regardless of shift, will be paid their regular salary minus jury duty fees while physically attending jury service on the same calendar day as they are otherwise scheduled to work, upon documentary proof being filed with the Town Supervisor. Employees must notify their department head immediately upon receiving notification that they are being required to report for jury duty. Travel allowance of mileage compensation checks for jury service is to be retained by the employee. Employees shall request that they be placed “on call” for jury service, where available.

9. Court Appearance

Absence of any employee due to appearance as a defendant or witness in any court action involving the Town will be approved by the Town Supervisor for the number of days necessary. Employees shall not lose any salary therefore.

10. Miscellaneous

The Town Board retains the sole discretion to grant a full or partial day excused absence from work for days of national mourning or other reasons acceptable to the Town. In this event, employees who are required to work during hours otherwise granted to unit members as excused absences shall be granted the same number of hours for future use as compensatory time as set forth in this agreement.

11. Night Differential

Any full-time employee working more than five full regularly scheduled, non-overtime, shifts in a calendar month that encompass any hour between 10:00 p.m. and 4:00 a.m. shall be entitled to receive a $100 night shift differential bonus for that month payable as part of an overtime check run during the following June or December, whichever comes first. This bonus shall not be construed as part of base salary for any monetary calculation other than as may be required for FLSA overtime payment purposes.
ARTICLE 4

VACATIONS

1. For the purpose of this article, all employees shall be deemed to have the same employment anniversary date: January 1. An employee appointed during the first six months of a year (January 1 to June 30) shall be deemed to have been hired on January 1st of that year. An employee appointed during the second six months of a year (July 1 to December 31) shall be deemed to have been hired on January 1 of the year subsequent to his/her appointment. Employees hired in the second six months of a year shall not be entitled to any vacation until July 1 of the year subsequent to their employment.

2. Permanent full-time employees of the Town shall be entitled to annual (January 1 to December 31) vacations, computed on the basis set forth in paragraph 1 above, as follows:

<table>
<thead>
<tr>
<th></th>
<th>“Administrative”</th>
<th>“Operational &amp; Technical”</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>“Clerical &amp; Supervisory”</td>
</tr>
<tr>
<td></td>
<td></td>
<td>“PSD’s”</td>
</tr>
<tr>
<td>a. Until completion of six months’ continuous service</td>
<td>-0- hrs.</td>
<td>-0- hrs.</td>
</tr>
<tr>
<td>b. After completion of six months’ continuous service until completion of one year continuous service</td>
<td>35 hrs.</td>
<td>40 hrs.</td>
</tr>
<tr>
<td>c. After one year continuous service</td>
<td>70 hrs.</td>
<td>80 hrs.</td>
</tr>
</tbody>
</table>

NOTE: In no event shall any employee with less than the completion of seven years’ continuous service receive more than 10 working days of vacation in any one calendar year (January 1 to December 31), except in those cases where employees are carrying over vacation days per Article 4, Section 6 and Article 12, Section 18.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. After seven (7) years’ continuous service</td>
<td>105 hrs.</td>
<td>120 hrs.</td>
</tr>
<tr>
<td>b. After twelve (12) years’ continuous service</td>
<td>140 hrs.</td>
<td>160 hrs.</td>
</tr>
</tbody>
</table>
c. After fifteen (15) years’ continuous service .......... 175 hrs. 200 hrs.

Regular, part-time employees shall be given one hour of vacation for every 20 full hours worked in the calendar year after one year of service.

3. Employees, upon request, shall be paid their vacation pay prior to the vacation, provided that they shall have given three weeks’ notice to the Supervisor.

4. Upon retirement or termination of service, except for cause, employees shall be compensated in cash for any accumulated vacation.

5. It shall be the duty of the department heads to schedule vacations with the cooperation of the various employees of the department, and the department head shall notify employees of vacation time assigned and approve such vacation time four weeks in advance of the time designated for the employee’s vacation.

6. An employee may carry over any unused vacation hours from one year into the following year, but in no event shall an employee whose title is found on the “Administrative” or “Clerical and Supervisory” salary schedules carry over more than 105 vacation hours from one year to the next and an employee whose title is found on the “Operational and Technical” or “Public Safety Dispatchers” salary schedules carry over more than 120 vacation hours from one year to the next. The Town shall not unreasonably withhold its approval that the cap may be exceeded where the excess is directly attributable to a Town-approved workers’ compensation leave of absence. In this instance, none of the days carried over may be sold back to the Town pursuant to Article 4 (8).

7. In case of catastrophic family illness, an employee may be granted an advance of the next year’s vacation time to be used during the current year if the employee has sufficient accumulated sick time to serve as collateral and upon approval of the Town Board.

8. Each employee will be entitled to sell back to the Town up to three weeks of previously accrued unused vacation time at the employee’s option, pursuant to the same procedures as are described in Article 5 (6) for the reduction of sick time, excluding the requirements of a minimum and maximum number of banked days.
ARTICLE 5
SICK LEAVE

1. Sick leave is absence necessitated by illness or other physical disability of the employee. In order to be eligible to receive sick leave on any given day, the employee must, immediately after contacting his/her department pursuant to that department’s standard procedure for requesting sick leave, also call the FMLA/Sick Line at 727-3200, X777 and advise that the employee is going to be absent from work that day, as well as whether the employee is requesting FMLA coverage for the absence because of a serious medical condition. Sick leave will be accumulated at the rate of 1 ¼ days per month (15 days per year), total accumulated sick leave of 230 days. After 230 days, additional paid sick leave may be granted in the sole discretion of the Town Board by resolution. Sick pay will not be paid to an employee during the first six months’ employment.

a. Regular, part-time employees will be paid sick leave at the rate of one hour for every 40 hours worked in any one year, or total accumulated sick leave of 60 days.

b. In order to receive sick leave, all employees shall, when absent because of sickness for more than three days, furnish the Town Supervisor with a medical certificate. Failure to furnish a medical certificate will result in loss of pay for absent days.

c. An employee absent on sick leave shall notify his/her supervisor of the absence within the first half hour of his/her working day or shift. Failure to notify his/her supervisor of his/her absence, due to sickness, will result in loss of pay for the days absent.

d. The Town Supervisor, in his/her discretion, may request a physical examination of the employee before his/her return to work.

2. Upon retirement, resignation or death, an employee or his/her legal representative shall be paid in a lump sum the value of the employee’s accumulated and unused sick leave as follows:

a. 100% of the first 225 unused accrued sick days as of the date of retirement, resignation or death provided that the employee during his/her employment with the Town had:

i. at least 125 accrued unused sick days at the end of any calendar year; or
ii. sold back sick days pursuant to the provisions of this agreement; or

b. 75% of the first 225 unused accrued sick days provided that the employee had at least 50 unused accrued sick days as of the date of retirement, resignation or death.

c. **Vacation & Sick Leave for Part-Time Employees.** One hour for every 17.5/35 or 20/40 hours worked.

3. An employee who falls ill while on vacation, upon presentation of a medical certificate certifying the employee was ill for three days or more during his/her vacation, may charge this illness to sick leave upon proper notification to the Town Supervisor.

4. The parties mutually agree that excessive absenteeism due to abuse of sick leave should be discouraged. Therefore, the Town may request a doctor’s certificate from chronic abusers of sick leave (e.g., numerous illness absences even though the employee has accumulated sick leave), regardless of the length of the illness. Any employee submitting a claim based on a false statement, or covering a period during which the employee was not actually disabled, will be considered as abusing the sick leave provision. Employees who abuse the sick leave provision shall be subject to disciplinary action.

5. Employees reporting for duty and becoming sick, whom the department supervisor sends home, shall receive a full day’s pay for that day.

6. An employee may elect to reduce the sick time accrued under Paragraph (1) by filing a written election with the Town Supervisor before September 1, in the form provided by the Town, for payment to be made in the last week in January of the following year. Buy-outs shall be in lots of 25 sick days. No buy-out shall be permitted unless at the time of election the employee has accumulated at least 125 sick days. The minimum number of sick days may not fall below 50 days. The rate of pay shall be calculated at the time of payment, and an employee who elects this option may not receive an amount in excess of what he/she would receive upon severance.

An employee having made this election has agreed that the maximum sick leave payable to the employee during his/her employment or upon his/her retirement shall be 225 days. Any payments made prior to retirement shall be deducted from the gross number of days that may be paid to an employee at retirement. An employee who has “bought-out” sick leave during his/her career shall be permitted to re-accumulate sick days to a maximum of 230 days but shall not be permitted to re-accumulate for
payment purposes and the additional days representing days already “bought-out” may be taken for sick time purposes only. An employee who has made this election will not, under any circumstances, be granted additional sick time by the Town Board if total accumulated sick leave is not sufficient for the employee’s future needs.

7. Sick Leave Bank

a. Voluntary Membership: All full-time employees wishing to join the sick leave bank can do so, but only on a full calendar year basis. Yearly membership applications must be submitted by December 15 for the ensuing year. Full-time employees appointed during the year can elect to join the bank for the next calendar year only. There will be no prorated membership.

b. Cost of Membership: Employees wishing to join the sick leave bank must contribute two days of accrued time by January 15 of the coverage year. Employees will be permitted to contribute any type of accrued time that they have on January 15, but must make that choice by the December 15 application date. The default will be sick time. Employees will vest in the sick bank upon 15 years of continuous membership or upfront contributions of a total 30 days of time. Vesting means contributions will no longer be required. An employee, at his/her option, can donate more than the required days, provided this is set forth in the application by December 15.

c. Eligibility Criteria

1. Only full-time employees are eligible to participate.
2. Employees must be members of the sick leave bank at the time of their request to use time from the bank.
3. At the time of the request, employees cannot be under disciplinary sanctions resulting in potential loss of wages.
4. Employees must be out for a minimum of 45 working days for the same illness prior to using sick leave bank days.
5. Employees must have exhausted all accrued time including vacation, sick, personal and/or compensatory time prior to the use of the sick leave bank.
6. The employee’s illness must be a “serious health condition” under the FMLA.
d. Restrictions

1. The withdrawal of time from the sick leave bank by an individual is limited to a maximum of 50% of the total unencumbered sick leave available in the bank on the first day that time from the bank is utilized for a particular absence or 120 days, whichever is less. The maximum number of days (i.e., 50% or 120, whichever is less) shall become encumbered as of the first day of usage by an individual for a particular absence.

2. Any withdrawal of days by an employee will require mandatory membership by that employee in the sick leave bank in the future until vesting.

3. An employee will not earn any accrued time during the use of sick leave bank days.

4. Contributions to the sick leave bank are non-refundable (i.e., days are not returned to an employee if they are not used). In addition, sick bank time has no value to employees other than as set forth in this section.

e. Benefits

1. Employees meeting all of the above criteria may utilize up to a maximum of 120 days in their lifetime.

2. Employees can utilize the 120 sick leave bank days for more than one period of illness, but the total number of days used cannot exceed 120 days combined.

3. All contributed sick days to the sick leave bank will be used in the calculation for meeting thresholds at severance (Article 5 (2)), but in no event will the employee be paid for any days contributed to this bank.

ARTICLE 6

SENIORITY

1. Competitive Class. Layoff and rehiring rights shall be governed by Civil Service Law Sections 80, 81, 82, 85 and 86 and the Rules and Regulations of the Suffolk County Department of Civil Service.

2. Employees in All Other Civil Service Classes. Subject to applicable provisions of law, and provided the employee to be retained and/or rehired
has the ability to perform the work assigned to him/her, layoff and rehiring rights shall be governed by the following rules. Seniority shall be computed from the date of employment. Each department shall maintain a seniority list within its department. If layoffs become necessary, within a job classification, employees will be laid off by seniority, with temporary employees being laid off first, then probationary employees, and then permanent employees. Before hiring any new employees within a job classification, the available work must be offered, in reverse order of layoff, to employees previously laid off. Written notice will be sent to the employee by registered or certified mail, return receipt requested, directing him/her to return to work in the department at the appropriate date and time, not fewer than five days from the date of the notice.

Failure of the employee to report to work on the date and time specified will constitute an abandonment of the employee’s recall rights and shall release the Town from any further obligation to recall the employee.

3. Regular full-time employees shall have preference over part-time or temporary employees in a department as to overtime, if available and capable of performing the required work.

4. For the calendar year 2011, the Town shall not, pursuant to Civil Service Law Section 80, lay-off any employee. This shall not apply to employees assigned to Animal Control.

ARTICLE 7

EMPLOYEE PROTECTION

1. All permanent, full-time employees covered by this agreement are offered the protection of Section 75 of the Civil Service Law, except for conviction of a felony or misdemeanor, upon which a hearing can be held at the discretion of the Town notwithstanding the provisions of Section 75. The Town Board may suspend without pay for more than 30 days a person charged by law enforcement with a felony or misdemeanor. If proven innocent, he/she will receive full back pay. Probationary employees can be discharged by the Town in its sole discretion with or without just cause or without resort to the grievance procedure.

2. Officers, limited to four members of the CSEA Unit, shall be given the highest departmental seniority while in office. A list shall be annually furnished to the Town.

3. Any former employee, upon being rehired, will be treated as a new employee with regard to sick leave, vacation time, wages, seniority and all similar benefits. An employee granted a leave of absence (parentage leave, unpaid leave or leave of absence pursuant to Civil Service Law)
shall not lose any seniority, sick leave, vacation hours or personal hours benefits already accumulated as of the date leave is granted by the Town Board.

4. Safety equipment shall be furnished to all appropriate personnel at no charge at the discretion of the department head.

5. The CSEA shall have the right to post notices pertaining to CSEA business on bulletin boards which should be provided by the Town and located at all appropriate Town facilities.

6. The CSEA Unit President or his/her authorized designee shall be entitled to up to a total of 10 working days paid released time per year to attend CSEA conventions and/or Town-authorized special unit-wide meetings, provided that the leave does not result in any overtime cost to the Town and the employee receives prior authorization from his/her Department Head to take the leave. Effective March 15, 2011, the number of working days shall be increased to 11. Effective January 1, 2012, the number of working days shall be increased to 12. Effective January 1, 2013, the number of working days shall be increased to 13. Effective January 1, 2014, the number of working days shall be increased to 14.

ARTICLE 8

GRIEVANCE PROCEDURE

1. Definition of Grievance. “Grievance” shall mean any claimed violation, misinterpretation or inequitable application of any of the provisions of this agreement that are terms and conditions of employment provided, however, that this term shall not include:

   a. disciplinary actions;

   b. any matter that is covered by Article 3 (6)(c), Article 3 (10), Article 5 (1) (4th sentence), Article 5 (1)(d), Article 12 (4), Article 12 (18), and Article 15 (10);

   c. any issue pertaining to paragraph “44” of the 1998-2000 memorandum of agreement between the parties; or

   d. any matter that is otherwise reviewable pursuant to law or any rule or regulation having the force and effect of law.

2. Consideration of Grievances. Employees, supervisors, and department heads shall exhaust every administrative device to settle amicably all differences. In the interest of uniform procedure and to expedite handling
of grievances, employees shall present their problem or grievance through supervisory channels in the following order:

a. **First Step.** As a condition precedent to the initial filing and processing of a grievance, the employee (or, in the case of a “class action” grievance, the CSEA) must fully complete and submit the agreed upon grievance form to his/her department head. The department head shall make a determination within 10 business days of receipt of the grievance, in writing, and present a copy of same to the employee, the Unit President, and the Town Supervisor.

b. **Second Step.** If a grievance is not satisfactorily resolved at the First Step, the employee shall appeal, in writing, to the Town Board within five business days of receipt of the First Step determination. If the employee fails to appeal, in writing to the Town Board within the above referenced time, the determination of the First Step shall be final as to the grievance.

Upon receipt of any appeal, the Town Board may request the employee to submit an agreed statement of facts or his/her version of the facts, or any other documents which the Town Board may deem pertinent to the determination of the appeal.

The Town Board shall conduct a hearing within 20 business days of receipt of an appeal.

Within 20 business days after the hearing, the Town Board shall make a decision based on its findings and shall advise, in writing, the Unit President or his/her designee, department head, and the aggrieved employee. If the Town Board fails to schedule the hearing on a timely basis, or fails to make a timely decision, the grievance shall be deemed to have been denied, and the CSEA may proceed to the Third Step.

c. **Third Step – Binding Arbitration.** If the CSEA is not satisfied with the decision at the Second Step, it may submit the grievance to arbitration if it serves written notice (the Demand for Arbitration form submitted by the CSEA) to the Town Supervisor’s Office within 10 business days of the date of the decision at the Second Step. The Arbitrator shall have jurisdiction to consider only the contract section or sections, and the party or parties identified as aggrieved that were specified in the grievance form that was submitted at the first step. The parties shall appoint an arbitrator from the following rotating panel of arbitrators: Arthur Riegel, Bonnie Siber-Weinstock and up to three other arbitrators to be agreed upon by the parties. Grievances for which arbitration has been demanded will be submitted to the next available arbitrator on the
Panel with the arbitrators listed in alphabetical order. An arbitrator(s) may be removed from the Panel by a party upon written notice to the other to be received by that party by not later than December 1 each calendar year. Should this occur, the parties shall immediately meet to attempt to agree upon a replacement(s). Failure to agree upon a replacement(s) shall not be subject to the grievance or arbitration procedure, PERB or court jurisdiction, or other third party review, except that, if the Panel contains fewer than five names for one or more months, then a party shall have the unilateral option, on written notice to the other, to replace the Panel for grievances not then pending for arbitration through the New York State Public Employment Relations Board as specified in the 2004-2007 Agreement.

The written report of the Arbitrator shall contain a statement of the Arbitrator’s findings of fact, reasoning, conclusions and binding award on the issues submitted. The Arbitrator shall have no authority to modify, alter, add to or subtract from any of the terms of this agreement and shall be bound by its express terms. The Arbitrator shall send a copy of his/her written report to the CSEA, the Town and their representative(s). Costs of the Arbitrator shall be equally borne by the CSEA and the Town.

3. Time of Hearing

All discussions and hearings shall, so far as practicable, be conducted during working hours. The aggrieved employee shall be allowed time off from regular duty as may be necessary and reasonable for hearings.

4. Representation

The Unit President or his/her designee shall be entitled to be present during the presentation and processing of a grievance in all stages.

5. Limitations

If a grievance occurs and cannot be resolved immediately, the employee shall obey the directive and shall present the grievances as soon thereafter as practicable. Grievances which are not presented within 10 business days of the occurrence shall be deemed to have been abandoned.

6. Withdrawn Grievance

The Unit President or his/her designee may withdraw a grievance at any step of the grievance procedure. The Unit President’s or his/her
designee’s decision on this matter will be binding on the employees involved.

7. **Class Action Grievances**

The CSEA shall have the right to file a grievance directly at the Second Step if the grievance affects a group of employees and is associated with a department or Town-wide policy.

**ARTICLE 9**

**PENSION AND LONGEVITY**

1. All permanent full-time employees must be members of the New York State Retirement System. All employees classified as Tier I or Tier II will be covered by Plan 75i. All regular part-time employees also may, at their option, become members of the New York State Retirement System. In the event that the State Retirement System makes provisions for the modification and/or revisions of this Retirement Plan, which can be determined by local option, this agreement shall immediately be reopened solely for the purpose of negotiating which option is selected.

2. Full-time employees of the Town of Riverhead shall receive longevity pay after completing the following years of continuous service: 4% percent of yearly salary without longevity pay after 10 years of continuous service; 5% percent of yearly salary without longevity pay after 15 years of continuous service; and 7% percent of yearly salary without longevity pay after 20 years of continuous service. Longevity pay is paid to the employee in a lump sum payment included with the overtime paycheck during the first full pay period of the month in which the employee’s anniversary occurs.

Longevity payments will be prorated prior to anniversary only when the employee is entitled to and has submitted an application to receive a pension to the New York State Retirement System. Longevity will be based on the January 1 salary of the current year.

**ARTICLE 10**

**INSURANCE**

1. **Health Insurance**

   a. The Town shall pay, on behalf of all full-time employees, the cost of either the individual or family plan for hospitalization under the Riverhead Town Hospitalization Plan as follows:
0 – 8 years of completed Town service: 75% of the premium rates for the Empire Core Plus Enhancements Plan.

More than 8 years of completed Town service: 100% of the premium rates for the Town’s Plan.

The employee will be expected to pay the difference as a payroll deduction.

b. For all full-time employees hired on or after October 7, 2008, the Town shall pay the cost of either the individual or family plan for hospitalization under the Riverhead Town Hospitalization plan as follows:

0 – 10 years of completed Town service: 75% of the premium rates for the Empire Core Plus Enhancements Plan.

More than 10 years of completed Town service: 100% of the premium rates for the Town’s Plan.

The employee will be expected to pay the difference as a payroll deduction.

c. The Town shall pay for 100% coverage for individual members of the CSEA who hereafter retire from the Town and the Town shall pay to the extent of 50% coverage on the premiums for the retiree’s family. An employee, at his/her option, may decide not to accept the Town’s hospitalization coverage for a period of not less than one calendar year and receive a December payment as follows: if the employee drops from family to no coverage, $1650; if the employee drops from family to individual coverage, $900; and if the employee drops from individual to no coverage, $750, except for those employees who, in 1996, received the buyback for dropping from individual to no coverage, who shall continue to receive $1,500 until and unless they revert to individual or family coverage. A new employee appointed during the year may receive a prorated payment minus two months. In order to receive this cash payment, an employee must sign an application form each and every year, and this application shall include an acknowledgment that the employee is covered under another plan. The Town may elect to provide the above benefits under a plan other than the Riverhead Town Hospitalization Plan, provided that the substitute plan provides benefits comparable or better than the existing plan.
d. No part-time employee hired on or after April 1, 2007 will be entitled to receive health insurance benefits from the Town or to otherwise participate in the Town’s health insurance plans. All part-time employees hired prior to April 1, 2007 shall continue to be eligible to participate in and receive health insurance benefits from the Town pursuant to the terms of this agreement and the rules and regulations of the Town’s health insurance provider.

e. Effective January 1, 2009, if two persons are currently receiving (or are eligible to receive) family health benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual or individual to no coverage will be entitled to the health insurance buy-out. The employee may reinstate coverage in the event of an emergency causing the loss of the other person’s Town health insurance, consistent with the rules and regulations of the Town’s health insurance plan and applicable laws and regulations.

At retirement, a former employee who is otherwise eligible for family retiree health insurance coverage through the Town but for the operation of this provision shall continue to be ineligible for family retiree health insurance coverage through the Town. However, during retirement, the former employee may reinstate his/her own family health insurance coverage, if the former employee has dependents as defined in the Plan, in the event of an emergency causing the loss of the other person’s Town health insurance, consistent with the rules and regulations of the Town’s health insurance plan and applicable rules and regulations.

f. Notwithstanding any prior practice to the contrary, the service requirement for receipt on health insurance in retirement shall be five consecutive years of service with the Town, and 10 consecutive years of service with the Town for all employees hired on or after October 7, 2008, and the employee must either: (1) be employed by the Town on the last date immediately prior to retirement into the NYSERS; or (2) have been employed by the Town as his/her last public sector employer, and have continuously self-paid his/her health insurance premiums to, and remained enrolled in, the Town’s health insurance plan between the last date of service with the Town and the date of vesting and receipt of benefits from the NYSERS, whichever is applicable, as set forth in the NYSERS Rules and Regulations (Part 256).

g. Health insurance coverage shall commence upon the first day in the month following the completion of four full calendar months of service for all employees hired after October 7, 2008. Health insurance
coverage shall terminate upon the last day in the second full month following the completion of employment.

2. **Life Insurance.** The Town will insure the life of each employee in accordance with the New York State Retirement Plan.

3. **Dental Insurance**

   a. The Town shall pay, on behalf of all active full-time and active regular part-time employees, 100% of the cost of either the individual or family plan for dental coverage under the Riverhead Town Dental Plan. Effective January 1, 2009, the maximum benefit for one dental expense period shall be increased to $1,500 and the aggregate maximum benefit for orthodontic treatment shall be increased to $1,500 per covered individual. An employee, at his/her option, may decide not to accept the dental coverage for a period of not less than one calendar year and receive a December payment of, if the employee drops from family to no coverage: $230; if the employee drops from family to individual coverage: $150; and if the employee drops from individual to no coverage: $80. A new employee appointed during the year may receive a prorated payment minus two months. In order to receive this cash payment, an employee must sign an application form each year and this application shall include an acknowledgment that the employee is covered under another plan. Dental coverage shall commence upon the first day in the month following the completion of four full calendar months of service for all employees hired after October 7, 2008. Dental insurance coverage shall terminate upon the last day in the second full month following the completion of employment.

   b. No part-time employee hired on or after April 1, 2007 will be entitled to receive dental insurance benefits from the Town or to otherwise participate in the Town’s dental insurance plan. All part-time employees hired prior to April 1, 2007 shall continue to be eligible to participate in and receive dental insurance benefits from the Town pursuant to the terms of this agreement.

   c. Effective January 1, 2009, if two persons are currently receiving (or are eligible to receive) family dental insurance benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual coverage or no coverage will be entitled to the dental insurance buy-out. Should that person choose to decline to receive individual coverage, then that person will be eligible for the buy-out of the individual coverage.
4. Optical Insurance

a. The Town shall pay, on behalf of all active full-time and active regular part-time employees, 100% of the cost of either the individual or family plan for optical coverage under the Riverhead Town Optical Plan. An employee, at his/her option, may decide not to accept the optical coverage for a period of not less than one calendar year and receive a December payment of $25. A new employee appointed during the year may receive a prorated payment minus two months. An employee must sign an application form each year and this application shall include an acknowledgment that the employee is covered under another plan. Optical coverage shall commence upon the first day in the month following the completion of four full calendar months of service for all employees hired after October 7, 2008. Optical insurance coverage shall terminate upon the last day in the second full month following the completion of employment.

b. No part-time employee hired on or after April 1, 2007 will be entitled to receive optical insurance benefits from the Town or to otherwise participate in the Town’s optical insurance plan. All part-time employees hired prior to April 1, 2007 shall continue to be eligible to participate in and receive optical insurance benefits from the Town pursuant to the terms of this agreement.

c. Effective January 1, 2009, if two persons are currently receiving (or are eligible to receive) family optical insurance benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual coverage or no coverage will be entitled to the optical insurance buy-out. Should that person decline to receive individual coverage, then that person will be eligible for the buy-out of the individual coverage.

5. HMO Plan

a. The Town shall offer up to two HMO plans. Employees have the option of choosing one of the two plans over the current Riverhead Town Hospitalization Plan, but under no circumstances may the employee have more than one plan.

b. The Town will continue to pay, on behalf of all full-time employees, the cost of the hospitalization plan as follows:

   0 – 8 years of completed Town Service: 75% of the rate set forth by the Empire Core Plus Enhancements Plan.
More than 8 years of completed Town service: 100% of the rate set forth by the Empire Core Plus Enhancements Plan.

c. For all full-time employees hired on or after October 7, 2008, the Town shall pay the cost of the hospitalization plan as follows:

0 – 10 years of completed Town service: 75% of the premium rates for the Empire Core Plus Enhancements Plan.

More than 10 years of completed Town service: 100% of the premium rates for the Town’s Plan.

6. **Long Term Disability Plan.** Employees will be permitted to voluntarily participate in a long term disability plan through a payroll deduction. This deduction will cover the total cost of the premium and any other costs associated with the plan. The plan will be administered by the CSEA. The Town shall have no obligation to the CSEA or the employees other than to make a payroll deduction for those employees who voluntarily authorize this deduction in writing and then to forward the deducted amounts to the CSEA.

**ARTICLE 11**

**MANAGEMENT RIGHTS**

1. The CSEA recognizes that all of the functions, rights, powers, responsibilities and authority of the Town, which the Town has not specifically abridged, deleted, delegated, granted or modified by this agreement are, and shall remain, exclusively those of the Town. The CSEA recognizes that the Town has the responsibility to manage the Town, direct its employees, determine the number of employees it will employ, has the right to hire, suspend, discharge, discipline, promote, demote or transfer its employees, subject, however, to the provisions of the Civil Service Law.

   The CSEA agrees, in recognition of management’s rights, not to request the Town to bargain with respect to the preceding paragraph during the term of this agreement, except as otherwise specifically provided for herein, either as to the basic decision or as to the effect of that decision upon wages, hours and other terms and conditions of employment.

2. The CSEA and the Town Board recognize that strikes and other forms of work stoppages by Civil Service employees are contrary to law and public policy. The CSEA and the Town Board subscribe to the principle that
differences shall be resolved by peaceful and appropriate means without interruption of the normal duties necessary to the operation of the Town.

The CSEA, however, agrees, that there will be no strikes, work stoppages, job actions or concerted refusals to perform work by employees covered by this agreement or instigation thereof. The Town Board agrees to bargain in good faith with the CSEA and to use no tactics that may be deemed as an unfair practice. CSEA agrees not to enforce any clause that is in violation of any Federal, State, County or local law or the past practice, that interferes with the efficient operation of Town Government.

**ARTICLE 12**

**GENERAL PROVISIONS**

1. The Town Board agrees to provide legal counsel, either the Town-appointed special counsel or the Town Attorney, to defend any employee in any action arising out of an assault on an employee on Town business, provided the employee was acting within the scope of his/her employment.

2. Upon the Town’s request, an employee’s fitness to serve will be evaluated by a physician selected by the Town, provided, however, that the examination shall be conducted in a medical facility, including, but not limited to, a doctor’s office, in Suffolk County not further west than the western border of Brookhaven Town. In the case of a medical specialist, the examination must take place within Suffolk County. The Town shall reimburse the employee for mileage to and from the examination at the then prevailing County of Suffolk rate, upon submission by the employee of a form to be prepared by the parties.

3. All openings for available positions covered by this agreement shall be done strictly in accord with Civil Service Law and the eligibility of those to be hired. If appropriate, vacancies will be adequately published except in situations in which no unit member is eligible to be appointed pursuant to Civil Service Law and Regulations. All full-time and regular part-time vacancies (but not seasonal, temporary or other vacancies), including position(s) to be filled, will be adequately published. The president of this unit shall receive a copy of such announcement simultaneously with the posting thereof. In filling such positions, preference shall be given to present employees when three or more qualified applicants submit their names for consideration provided notice is given by the employee within five working days of notice being posted.

4. Leave of absence without pay may be granted to employees in the discretion of the Town Board for a maximum of six months upon written application therefor and good cause shown. Effective March 15, 2011,
employees who are on an unpaid leave of absence as of that date shall be required to utilize a minimum of 17.5 hours (white collar) or 20 hours (blue collar) of leave accruals in order to continue to receive medical, dental and optical benefits for that week. Once their leave ends, they and all other employees who are granted an unpaid leave of absence shall be required to utilize 35 hours (white collar) or 40 hours (blue collar) of leave accruals in order to continue to receive medical, dental and optical benefits for that week. This provision does not affect workers’ compensation or other paid leaves of absence.

Any employee on a leave of absence shall be notified by the Town prior to the end of the leave and by certified mail to the employee’s last known address, of the date of expected return to work following the end of the leave. Any employee who fails to return to work within 10 days of the designated day shall be deemed to have abandoned his/her position with the Town. The employee will then be deemed to have waived any applicable due process protections otherwise available including, but not limited, to those pursuant to Civil Service Law Section 75 or this Agreement, and may be terminated by the Town at its discretion.

5. Any employee who is absent without leave or without due notification to the Town Supervisor shall suffer loss of pay for the days of such absence. When an employee is absent without leave or without due notification to the Town Supervisor three times of any duration in a period of one year, these unauthorized absences are cause for dismissal.

6. Uniforms & Cleaning Allowance

a. During the first year of employment, those employees appointed during the first six months (January – June) shall receive the full allotment of uniforms. Those appointed during the second six months (July – December) shall receive three uniform shirts and three uniform pants. 100% cotton uniforms shall be provided at the employee’s option. The Town shall provide all full-time “Operational and Technical” employees with five uniform shirts and five uniform pants each year by not later than April 15 or 60 days from the date of a new hire’s appointment by the Town Board. All full-time “Operational and Technical” employees are required to report to work in Town-issued uniforms. All full-time “Operational and Technical” employees will receive a spring and winter jacket when needed and deemed necessary by their department head. An employee may request, in lieu of a winter jacket, one set of insulated coveralls.

b. All full-time “Clerical & Supervisory”, “Administrative” and “Public Safety Dispatcher” employees and any employee classified as a Parking Meter Officer shall receive a prorated cleaning allowance in
the sum of $400 to be paid during the week of December 15 to December 25. Any employee receiving a Town-issued uniform shall be ineligible to receive the allowance during that year. “Full-time Public Safety Dispatchers” and full-time employees classified as Parking Meter Officers, Building Department “Inspectors,” Bay Constables and Cooks are required to report to work in Town-issued uniforms. The Town shall provide these employees with five uniform shirts and five uniform pants/skirts each year by not later than April 15 or 60 days from the date of a new hire’s appointment by the Town Board. During the first year of employment, those employees appointed during the first six months (January – June) shall receive the full allotment of uniforms. Those appointed during the second six months (July – December) shall receive three uniform shirts and three uniform pants/skirts. All regular part-time employees in these classifications shall receive a number of uniforms equal to the number of days in their regularly scheduled work week; in no event, though, to exceed the annual uniform allotment provided to a full-time employee in the same classification.

7. There shall be paid to authorized employees, using private transportation on Town business, upon approval by the Town Supervisor, mileage at the mileage rate set forth by the Internal Revenue Service (IRS).

8. Work-related inoculations shall be provided by the Town as required by PESH or law.

9. All employees of the Town will be paid every two weeks on Thursday of the latter week.

10. Effective November 6, 2008, a lag payroll will be implemented for all employees as follows:

   a. Employees whose pay checks are subject to a two week payroll lag as of the date on which the 2008-2010 Agreement is fully ratified and approved will receive their regular pay checks for the pay period of October 12, 2008 through October 25, 2008 on November 6, 2008, as scheduled, and their regular pay checks for the pay period of October 26, 2008 through November 8, 2008 on November 20, 2008, as scheduled.

   b. Employees whose pay checks are not subject to a two week payroll lag as of October 7, 2008 will receive their regular pay checks for the pay period of October 26, 2008 through November 8, 2008 on November 20, 2008, rather than on November 6, 2008, as scheduled.
c. For all employees, pay checks will be issued on November 20, 2008 and every two weeks thereafter.

d. Any retroactive base salary increases owed by the Town to employees as a result of the implementation of the provisions of the 2008-2010 Agreement shall be paid on November 6, 2008.

e. Any lag payroll agreement entered into prior to October 7, 2008 will be null and void upon the full and complete implementation of this Article 12, Section 10.

f. By no later than October 17, 2008, an employee whose retroactive pay check will be inadequate to cover the dollar value of the number of days to be lagged pursuant to this Agreement may submit a written request to the Accounting Department to buy-back, in single day (seven or eight hour) increments, up to three days of unused accrued leave time and/or compensatory time (seven or eight hour increments). The form attached to the 2008-2010 Agreement shall be used for all buy-back requests.

11. The time sheet attached to the 2008-2010 Agreement shall continue to be used for all employees not required to use another time and attendance recording mechanism. An employee shall be provided with a copy of his/her signed time sheet upon request.

12. An employee, following proper notification to the Town Supervisor, may be permitted to review his/her official employment personnel file within 10 business days of the request. Any material classified as confidential shall not be subject to duplication by the employee, but he/she shall have an opportunity to read said materials and make a written reply within 10 business days which shall be inserted in the employee’s personnel folder. This period of time shall be extended, on a business day by business day basis, for any business day on which the employee is physically incapable of writing the reply.

13. To the extent permitted by the U.S. Internal Revenue Code and the New York State Income Tax Laws, the Town shall establish a deferred compensation plan for the employees covered by this Agreement.

14. For the purpose of negotiations for future contracts and reopening provisions as covered by this agreement, the Town and the CSEA agree to limit each team to no more than six members. The CSEA Negotiating Team consisting of six members will be inclusive of the CSEA representative. The teams shall be determined at the start of the negotiating session and remain the same until these sessions are concluded.
15. Labor/Management meetings shall be held quarterly with three members each from the Town and the CSEA. The Unit President will notify the Town of the membership of CSEA at the beginning of the year and any subsequent changes prior to these meetings.

16. The Unit President shall be notified when there will be an addition of a new title to the salary schedules. This notification is strictly advisory and in no way binding.

17. Employee of the Quarter/Year. The employee selected as Employee of the Quarter and/or Year by the Labor/Management Committee shall be awarded one additional vacation day. Nothing contained in this paragraph, nor any action or inaction of the Committee, shall be subject to the grievance procedure or to any PERB or Court proceeding.

18. Contract Reproduction. A draft of the new contract shall be prepared by the Town and submitted to the CSEA within 60 calendar days after the complete ratification/approval of the Agreement. The CSEA shall present to the Town, in writing, all objections to the draft, specifying the page, section, paragraph and line number(s), and the specific basis for the objection, within 30 calendar days from its receipt of the draft or the draft shall be deemed acceptable to the parties and the Town shall proceed to print and distribute the contract within the next 60 calendar days. The parties will endeavor to resolve any differences within the 30 calendar days following the Town’s receipt of the CSEA’s timely objections.

ARTICLE 13

SAFETY INCENTIVE BONUS

In the event that any group of departments, as defined below, have an accident-free calendar year that results in no workers’ compensation claims being filed, each full-time employee in that group(s) on the payroll and not on a leave of absence at the end of the year will be awarded $250. In the event that only one or two such claims are filed, then each such employee shall be awarded $50.

a. Highway Department
b. Sewer District and Joint Scavenger District.
c. Water Department
d. Buildings and Grounds, Bay Constable
e. Street Lighting, Municipal Garage, Dog control, Public Parking (ST)
f. THI/Accounting, Assessors, Tax Receiver, Town Clerk, Purchasing
g. THII/Building Department, Planning Department, Community Development, Shared Services
h. THIII/Engineering, Refuse and Garbage, Senior Citizen Program, Supervisor, Recreation, Town Attorney
i. THIV/Police Clerical (including PSD’s), JAB, Justice Court

Effective January 1, 2009, this Article shall be deleted.

**ARTICLE 14**

**WORKERS’ COMPENSATION**

1. If an employee is injured or assaulted on the job while acting within the scope of the employee’s employment and the employee reports same to the department head and the Town Supervisor’s Office, and the employee has to be absent from work due to an injury or assault, no days shall be deducted from the employee’s accumulated sick leave during the duration of the absence, until either the employee applies for reinstatement to full-duty status, a physician determines that the employee is able to return to work, or the employee has received full salary for one year, whichever comes first; provided, however, that if the employee is determined to be permanently disabled, no days shall be deducted until either a final determination on an application for a disability pension, a physician determines that the employee is able to return to work, or the employee has received full salary for two years, whichever comes first. The Town will notify the employee 90 days before the end of the two-year period is about to expire. If an employee receiving full salary receives a compensation check for lost time due to a compensable injury, the employee shall endorse the check over to the Town. Accrued leave time shall be used during the first five days of any absence, unless the Town decides not to controvert the employee’s claim. If Worker’s Compensation awards the Town reimbursement for any or all of these five days, then the day(s) shall be recredited to the employee.

2. The Town will pay 100% of the employee’s salary for the first six months during which the employee is absent from work, and 85% of the employee’s salary for any time beyond that period. Nothing contained herein shall in any way be deemed to restrict the Town’s right to separate employees pursuant to the provisions of Civil Service Law Sections 71-73.

**ARTICLE 15**

**JOB CLASSIFICATION AND SALARY ADMINISTRATION PROGRAM**

1. The parties agree that job classification and salary administration will be in accord with “The Salary Administration Program, dated October 6, 1975”. The parties further agree that this program may be amended by the Town as time and circumstances warrant, provided that these amendments are
not contrary to the further terms and conditions of this contract. These amendments shall include, but shall not be limited to, the amendment or addition of job descriptions.

2. In the implementation of “The Salary Administration Program”, promotions of employees and their assignment to the salary schedule, except as are set forth herein, are subject to the Town Board discretion. Employees will be guaranteed at least a 3% increase in salary as a result of the promotion and assignment to the salary schedule. Formal written evaluations shall be conducted at least once per year pursuant to the Annual Performance Review form. These employee evaluations shall be placed in each employee’s personnel file.

3. “The Salary Administration Program” will be administered in conformity with the New York State Civil Service Law and the rules of the Department of Civil Service, County of Suffolk.

4. For the period of this contract (January 1, 2011 to December 31, 2014), the “Salary Structure” for the “Administrative,” “Clerical and Supervisory,” “Operational and Technical,” “Public Safety Dispatcher,” employees shall be set forth on Exhibit “A” attached hereto for the year 2011, Exhibit “B” for the year 2012, Exhibit “C” for the year 2013 and Exhibit “D” for the year 2014.

ARTICLE 16

WAGES

1. Employees shall receive an annual salary as set forth on the “Salary Schedule”.

2. Effective January 1, 2013, each step on the 2010 salary schedule shall be increased by 1%, as per the new salary set forth in the attached salary schedule. Effective January 1, 2014, each step on the 2013 salary schedule shall be increased by 1.5%, as per the new salary set forth in the attached salary schedule.

3. On each January 1, all employees not on the “P” Step or Step “19” shall move a total of one step from their step placement as of the prior December 31 to the next available step within their group. On January 1, 2011, all employees who are top step shall receive a $200 bonus payable in the last full payroll period in December. On January 1, 2012, all employees who are top step shall receive $200 bonus payable in the last full payroll period in December.
4. An employee, excluding any part-time employee, e.g., detention attendants, recalled after he/she has finished his/her regular hours of work, shall receive a minimum of two hours credited as time worked at the applicable overtime rate. No compensation, other than the minimum recall compensation, shall be earned until the employee shall begin his/her third hour of recall.

5. Overtime shall be paid at the rate of 1 1/2 times the employee’s hourly rate of pay except as set forth in Article 3, Section 2. Overtime shall be computed on a weekly basis on the 35 hour work week for “Clerical and Supervisory” and “Administrative” employees and 40 hour work week for “Operational and Technical” employees. Employees may be paid for overtime and/or compensatory time off in one of the following manners: (a) in compensatory time off, pursuant to Article 16 (6); (b) in compensatory time off that is converted by the employee to overtime and then paid in a separate monthly payroll, run during the first full payroll period of that month, provided the request is submitted to the Accounting Department by not later than the 25th of the preceding month, and provided further that the compensatory time off shall be used within a given calendar year and, if not used, shall be paid at year’s end at the employee’s pay rate in effect at the time the compensatory time was earned; or (c) in overtime which is included in a timely submitted biweekly time sheet, which shall be paid to the employee in the next biweekly paycheck.

The employee shall continue to indicate on the biweekly time sheet which method at his/her options the employee elects to utilize in that pay period. In the event no method is chosen, the default shall be option (c).

Overtime will accrue on a full-hour basis only, but a full hour need not be accrued consecutively in terms of minutes worked on a daily basis. An employee’s hourly rate of pay shall be based on his/her daily rate of pay.

The daily rate of pay shall be determined annually by dividing the employee’s annual base salary as shown on the “Salary Structure” by the number of regular working days (inclusive of holidays) in that year. An employee’s hourly rate of pay shall be his/her daily rate of pay divided by seven hours for “Clerical and Supervisory” and “Administrative” employees and eight hours for “Operational and Technical” and “Public Safety Dispatcher” employees. The Public Safety Dispatchers’ daily rate of pay shall be calculated at 1/250 of his/her annual salary.

6. Compensatory time off for overtime hours worked (in lieu of overtime pay) shall be at the rate of 1 1/2 hours of compensatory time off for each overtime hour worked. Employees shall be able to accumulate compensatory time up to the FLSA cap (currently 240 hours). Compensatory time off must be claimed by the employee prior to the
processing of overtime pay by the Office of the Town Supervisor. Compensatory time can be allowed or disallowed at the option and scheduling of the Department Head. Employees may be paid for overtime and/or compensatory time off in one of the following manners: (a) in compensatory time off, pursuant to Article 16 (6); (b) in compensatory time off that is converted by the employee to overtime and then paid in a separate monthly payroll, run during the first full payroll period of that month, provided the request is submitted to the Accounting Department by not later than the 25th of the preceding month, and provided further that the compensatory time off shall be used within a given calendar year and, if not used, shall be paid at year’s end at the employee’s pay rate in effect at the time the compensatory time was earned; or (c) in overtime which is included in a timely submitted biweekly time sheet, which shall be paid to the employee in the next biweekly paycheck.

The employee shall continue to indicate on the biweekly time sheet which method at his/her option the employee elects to utilize in that pay period. In the event no method is chosen, the default shall be option (c.)

7. A part-time detention attendant when called in to work shall receive a minimum of three hours credited as time worked at the applicable straight-time rate.

8. At the option and direction of the Town Board, probationary employees, for the first 12 months of their employment, will be paid at a rate of pay as specified in Column “P” of the attached Salary Schedule.

9. The Town will provide direct deposit for all unit members. It is agreed that those unit members who decide to utilize direct deposit will be required to work during the period of time when they had previously been excused to cash their paychecks.

10. **Pesticide Application License Stipend.** Any employee possessing a valid pesticide application license and whose jobs duties require the possession of same, shall be paid a prorated annual stipend of $1,000 in lieu of any reimbursement for the cost of obtaining, maintaining and/or renewing the license outside of the employee’s regular working hours, with the Town continuing to pay for courses that are taken during the employee’s regular working hours.

11. **Water and Waste Water Operator License Stipend.** Any full-time employee who meets the State requirements for taking a course to obtain a water or waste water plant operator’s grade license may have the Town pay for the tuition for the course(s) required to obtain that license, provided that the course (s) is/are offered, within a six month prospective rolling period, at the scheduled location in New York State that is
geographically closest to the Town. If the employee fails to obtain the license on the first try, then the employee will then be required to pay for the cost of any additional courses required to obtain that license.

12. **Standby Pay.** Any full-time licensed and Civil Service titled Waste Water Treatment Plant Operator and Water Treatment Plant Operator, as well as any employee holding a “Senior” designation within these titles, may be designated to remain on standby. Eligible employees shall be designated pursuant to a rotating list. Assignments shall be made on a rotating basis by Town-wide seniority. Employees so designated must be available by phone, beeper or pager and be able to respond to the Plant fully fit for duty within 15 minutes of notification to report to work. These employees shall be eligible to receive standby pay at the rate of one hour of straight pay for each eight hour shift on which the employee is ordered to remain on standby. If the employee is recalled while on standby, then the employee shall be entitled only to recall and not standby pay.

13. When a full-time employee is reduced to part-time status at the employee’s request, his/her new salary shall be proportionately reduced from the employee’s last full-time hourly rate.

14. The hourly rate of any part-time employee hired after October 7, 2008 shall be calculated from a base salary of the applicable “P” step minus $2,000.

**ARTICLE 17**

**DRESS CODE**

The parties agree that each employee shall wear attire appropriate for their job duties and responsibilities. Employees who interact with the public shall not wear shorts, T-shirts, tank tops, or jeans, unless they receive their supervisor’s prior permission to do so.

**ARTICLE 18**

**DRUG AND ALCOHOL TESTING**

1. The purpose of this Article is to establish a written procedure for conducting tests of an employee when there is reasonable suspicion that such employee is under the influence of or using illegal controlled substances or alcohol as set forth in paragraph 3 below. An employee will be tested only when reasonable suspicion exists that such test would yield a positive result for the presence of illegal controlled substances or their metabolites or alcohol.
2. The use of illegal controlled substances or alcohol by an employee, regardless of the position held, adversely affects the accomplishment of the Town’s ability to safely deliver services, impairs the efficiency of the workforce, endangers the lives of employees and the public and undermines the public trust and is, therefore, prohibited. In order to identify possible illegal controlled substance usage, and to curtail the use of illegal controlled substances and alcohol, procedures to test for the use of illegal controlled substances and alcohol upon reasonable suspicion have been established in this Article.

3. Employees shall be subject to testing based upon a reasonable suspicion as defined below in this paragraph. Any employee who refuses to submit to testing may be subject to discipline, including discharge.

a. In determining whether to order a test in a particular case, the Town must balance an employee's reasonable expectation of privacy from unreasonable intrusions against the Town's interest in assuring the integrity and fitness its employees and the safe delivery of its services.

b. The order to submit to testing must be justified by a reasonable suspicion that the employee has reported for duty under the influence of illegal controlled substances or alcohol or is engaging in the possession, use, distribution, or sale of illegal controlled substances either on or off duty.

c. While the “reasonable suspicion” standard does not lend itself to precise definition or mechanical application, vague, unparticularized, unspecified, or rudimentary hunches or intuitive feelings do not meet the standard.

d. Reasonable suspicion is the quantum of knowledge sufficient to induce an ordinarily prudent and cautious person to act under the circumstances. Reasonable suspicion must be directed at a specific person and be based on specific and articulable facts and the logical inferences and deductions that can be drawn from those facts.

e. Reasonable suspicion may be based upon, among other matters: observable phenomena, such as direct observation of use and/or the physical symptoms of using or being under the influence of illegal controlled substances such as, but not limited to, slurred speech; disorientation; a pattern of abnormal conduct or erratic behavior; conduct or behavior which warrants employer inquiry because of a direct bearing of the mental faculties of the employee on the health and safety of others; action(s) inconsistent with normal conduct or behavior; or information provided either by reliable and credible sources or which is independently corroborated.
f. The Town will not test solely on the information of anonymous sources unless the information is reliable and credible, or there is corroborative evidence to support the reliability of that information.

g. It is intended that where a decision is made to test, the employee will be given a direct order to submit to the test, and the CSEA shall be notified of such order.

4. Urinalysis shall be in accordance with the standards and procedures incorporated in the U.S. Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs, issued April 11, 1988, 53 F. R. 11973, as amended by 59 F.R. 29908 (1994), 62 F.R. 51118 (1997) and 63 F.R. 63483 (1998), etc., and the following:

a. The employee being tested shall have the right to an independent analysis of the specimen from a lab of his/her choice from a list mutually agreed to by the Town and the Union. The employee shall designate, at the time the specimen is given, the laboratory, if any, chosen by such employee, and a specimen shall be provided to that laboratory, as well as to the laboratory designated by the Town. Copies of all test results shall be sent to the employee and the Town.

b. All tests required by the Town will be fully paid for by the Town. The employee shall pay for any tests required by him/her.

c. All test results shall be kept confidential except as necessary to implement the terms and conditions of this policy.

d. The time required of the employee by the Town to take the ordered test shall be considered paid time if it extends beyond the employee’s normal work day.

e. Within 10 business days after the test, the employee may file a grievance pursuant to the terms of the parties’ collective bargaining agreement. If the grievance is not filed within 10 business days after the test, the employee may raise the issue of reasonable suspicion in any disciplinary proceeding initiated by the Town against the employee in connection with which the drug test is used; but in no event shall the employee and/or the Union be able to litigate the issue of “reasonable suspicion” in both proceedings.

5. In the event that test procedures reveal the presence of illegal controlled substances or their metabolites or alcohol, such employee may be subject to discipline, including discharge. However, in the first instance of such positive alcohol or drug test, any related disciplinary charges may be
suspended in the Town’s discretion if the employee agrees in writing to complete counseling and treatment on his/her own time for such illegal controlled substances or alcohol usage in a program recommended or approved by an Employee Assistance Plan (EAP) previously selected by the Town and the CSEA, and allows the EAP to provide progress reports to the Town Supervisor’s Office. The employee shall agree, as a condition to the suspension of the disciplinary charges, that if he/she fails to attend or complete the recommended program, he/she shall be deemed to have resigned. The employee shall also agree, as a condition to the suspension of the disciplinary charges or penalty, that for a period of one year following the completion of treatment, he or she shall be subject to periodic random illegal controlled substances and/or alcohol testing, and that, if he/she completes counseling and treatment but tests positive for illegal controlled substances or alcohol during such one year period, the Town may reinstitute the suspended charges. Upon completion of treatment, as outlined above, and the one year period, the original disciplinary charges or penalty shall be considered resolved. The record of such charges and their resolution (the charges, the answer, and the Stipulation) shall remain in the employee’s file unless the parties otherwise agree.

6. Random Drug and Alcohol Testing. All unit members shall be subject to random drug and alcohol testing pursuant to the same rules and regulations in effect for CDL holders.
<table>
<thead>
<tr>
<th>Group</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Open</td>
</tr>
<tr>
<td>B</td>
<td>Driver Messenger</td>
</tr>
<tr>
<td>C</td>
<td>Homemaker</td>
</tr>
<tr>
<td>D</td>
<td>Food Service Worker</td>
</tr>
<tr>
<td>1</td>
<td>Assistant Cook</td>
</tr>
<tr>
<td>2</td>
<td>Clerk/Switchboard Operator/Recreation Aide/Cook/Senior Citizen Aide</td>
</tr>
<tr>
<td>3</td>
<td>Mini Bus Driver</td>
</tr>
<tr>
<td>4</td>
<td>Bus Driver/Clerk Typist/Senior Cook/Administrative Aide/Senior Citizen Aide II/Cashier</td>
</tr>
<tr>
<td>5</td>
<td>Assessment Clerk/Assistant Recreation Center Manager/Senior Citizen Assistant/Assistant Senior Citizen Center Manager/Real Property Recorder I/Senior Park Attendant</td>
</tr>
<tr>
<td>6</td>
<td>Assistant Recreation Leader/Asst. Adult Day Care Program Supervisor</td>
</tr>
<tr>
<td>7</td>
<td>Senior Clerk/Stenographer</td>
</tr>
<tr>
<td>8</td>
<td>Account Clerk/Senior Clerk Typist/Court Stenographer/Legal Stenographer</td>
</tr>
<tr>
<td>9</td>
<td>Account Clerk Typist/Recreation Center Manager/Senior Assessment Clerk/Senior Stenographer/Nutrition Center Manager/Senior Citizen Center Manager/Records Management Assistant</td>
</tr>
<tr>
<td>10</td>
<td>Senior Account Clerk/Assessment Assistant/Secretarial Assistant</td>
</tr>
<tr>
<td>11</td>
<td>Senior Account Clerk Typist/Justice Court Clerk/Drug Court Specialist/Senior Neighborhood Aide</td>
</tr>
<tr>
<td>12</td>
<td>Senior Justice Court Clerk/Detention Attendant/Principal Assessment Clerk</td>
</tr>
<tr>
<td></td>
<td>Open</td>
</tr>
<tr>
<td>----</td>
<td>------</td>
</tr>
<tr>
<td>13</td>
<td>Open</td>
</tr>
<tr>
<td>14</td>
<td>Open</td>
</tr>
<tr>
<td>15</td>
<td>Open</td>
</tr>
<tr>
<td>16</td>
<td>Open</td>
</tr>
<tr>
<td>Group</td>
<td>Title</td>
</tr>
<tr>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td>1</td>
<td>Bingo Inspector/Senior Citizen Program Supervisor</td>
</tr>
<tr>
<td>2</td>
<td>Administrative Assistant/Recreation Leader</td>
</tr>
<tr>
<td>3</td>
<td>Community Development Specialist I</td>
</tr>
<tr>
<td>4</td>
<td>Youth Counselor/Recreation Supervisor/Community Development Program Technician/Purchasing Technician/Recreation Program Coordinator/Principle Account Clerk/Network &amp; System Technician/Code Compliance Coordinator/Budget Technician/Grants Technician</td>
</tr>
<tr>
<td>5</td>
<td>Planning Aide/Ordinance Inspector/Computer Operator II/Housing Inspector/Public Relations Specialist/Insurance Manager/Head Clerk/Payroll Supervisor</td>
</tr>
<tr>
<td>6</td>
<td>Building Inspector/Bay Constable/Senior Citizen Program Director/Fire Marshal I/Computer Graphics Mapping/effective January 1, 2013, Payroll Supervisor/Specialist/Building Permit Coordinator/Jr. Civil Engineer Trainee/Zoning Inspector/Electrical Inspector/Engineering Inspector/Justice Court Director/Executive Director of Youth Bureau</td>
</tr>
<tr>
<td>7</td>
<td>Site Plan Reviewer/Purchasing Agent/Assistant Recreation Superintendent/Fire Marshal II/Jr. Civil Engineer/Accountant/Grants Coordinator/Paralegal Assistant/EDZ Coordinator/Assistant Community Development Projects Coordinator/Senior Administrative Assistant/Auditor/Ordinance Enforcement Officer/GIS Supervisor</td>
</tr>
<tr>
<td></td>
<td>Position</td>
</tr>
<tr>
<td>----</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>8</td>
<td>Senior Building Inspector/Zoning &amp; Building Administrator/Town Intergovernmental Relations Coordinator/Senior Purchasing Agent</td>
</tr>
<tr>
<td>9</td>
<td>Planner/Chief Building Inspector/Principal Building Inspector/Senior Auditor/Asst Town Engineer/Environmental Planner/Assistant Civil Engineer/Network &amp; Systems Administrator/Computer Operator II/Town Investigator</td>
</tr>
<tr>
<td>10</td>
<td>Senior Planner/Assistant Town Planning Director/Chief Fire Marshal</td>
</tr>
<tr>
<td>11</td>
<td>Open</td>
</tr>
<tr>
<td>12</td>
<td>Senior Town Investigator/Civil Engineer/Senior Civil Engineer</td>
</tr>
<tr>
<td>13</td>
<td>Open</td>
</tr>
<tr>
<td>14</td>
<td>Open</td>
</tr>
</tbody>
</table>
**2011/2014 OPERATIONAL & TECHNICAL SALARY SCHEDULE**

<table>
<thead>
<tr>
<th>Group</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Guard/Court Attendant/Crossing Guard</td>
</tr>
<tr>
<td>B</td>
<td>Open</td>
</tr>
<tr>
<td>C</td>
<td>Open</td>
</tr>
<tr>
<td>D</td>
<td>Open</td>
</tr>
<tr>
<td>1</td>
<td>Custodial Worker I</td>
</tr>
<tr>
<td>2</td>
<td>Parking Meter Officer I/Scale Operator I</td>
</tr>
<tr>
<td>3</td>
<td>Laborer/Custodial Worker II/Kennel Attendant/Groundskeeper I</td>
</tr>
<tr>
<td>4</td>
<td>Maintenance Mechanic I</td>
</tr>
<tr>
<td>5</td>
<td>Animal Control Officer I</td>
</tr>
<tr>
<td>6</td>
<td>Automotive Equipment Operator</td>
</tr>
<tr>
<td>7</td>
<td>Maintenance Mechanic II/Heavy Equipment Operator</td>
</tr>
<tr>
<td>8</td>
<td>Maintenance Mechanic III/Auto Mechanic II</td>
</tr>
<tr>
<td>9</td>
<td>Construction Equipment Operator/Auto Mechanic III/Wastewater Treatment &amp; Water Treatment Plant Operator Trainees</td>
</tr>
<tr>
<td>10</td>
<td>Town Building Maintenance Crew Leader/Animal Control Officer II</td>
</tr>
<tr>
<td>11</td>
<td>Traffic Signal Maintenance Supervisor</td>
</tr>
<tr>
<td>12</td>
<td>Auto Mechanic IV/Highway Maintenance Crew Leader/Maintenance Mechanic IV/Grounds Maintenance Supervisor</td>
</tr>
<tr>
<td>13</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Wastewater Treatment Plant Operator II /Water Maintenance Crew Leader</td>
</tr>
<tr>
<td>15</td>
<td>Town Building Maintenance Supervisor /Maintenance Mechanic V/Auto Mechanic V/Highway General Supervisor/Water Treatment Plant Operator II B</td>
</tr>
<tr>
<td></td>
<td>Job Title</td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>16</td>
<td>Senior Wastewater Treatment Plant Operator II / Water Treatment Plant Operator IB / Wastewater Treatment Plant Operator III</td>
</tr>
<tr>
<td>17</td>
<td>Senior Water Treatment Plant Operator IB / Senior Wastewater Treatment Plant Operator III / Wastewater Treatment Plant Operator IIIA</td>
</tr>
<tr>
<td>18</td>
<td>Senior Wastewater Treatment Plant Operator III A</td>
</tr>
<tr>
<td>19</td>
<td>Open</td>
</tr>
<tr>
<td>20</td>
<td>Open</td>
</tr>
<tr>
<td>Group</td>
<td>Title</td>
</tr>
<tr>
<td>-------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>1</td>
<td>Public Safety Dispatcher I</td>
</tr>
<tr>
<td>2</td>
<td>Public Safety Dispatcher II</td>
</tr>
</tbody>
</table>
LABOR CONTRACT

Between the

TOWN OF RIVERHEAD

and the

RIVERHEAD TOWN POLICE

BENEVOLENT ASSOCIATION, INC.

2012-2015
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Article</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARTICLE I – RECOGNITION</td>
<td>1</td>
</tr>
<tr>
<td>ARTICLE II – CHECK OFF</td>
<td>1</td>
</tr>
<tr>
<td>ARTICLE III – HOSPITALIZATION AND MEDICAL INSURANCE</td>
<td>4</td>
</tr>
<tr>
<td>ARTICLE IV – HOLIDAYS</td>
<td>8</td>
</tr>
<tr>
<td>ARTICLE V – ADDITIONAL VETERANS HOLIDAYS</td>
<td>9</td>
</tr>
<tr>
<td>ARTICLE VI – RECALL AND STANDBY</td>
<td>10</td>
</tr>
<tr>
<td>ARTICLE VII – BEREAVEMENT LEAVE</td>
<td>10</td>
</tr>
<tr>
<td>ARTICLE VIII – OVERTIME AND NIGHT DIFFERENTIAL</td>
<td>11</td>
</tr>
<tr>
<td>ARTICLE IX – VACATION</td>
<td>12</td>
</tr>
<tr>
<td>ARTICLE X – PERSONAL DAYS</td>
<td>13</td>
</tr>
<tr>
<td>ARTICLE XI – LONGEVITY PAY</td>
<td>14</td>
</tr>
<tr>
<td>ARTICLE XII – EXCUSE FROM DUTIES OF THE PBA</td>
<td>14</td>
</tr>
<tr>
<td>REPRESENTATIVES</td>
<td></td>
</tr>
<tr>
<td>ARTICLE XIII – DUTY TOURS</td>
<td>15</td>
</tr>
<tr>
<td>ARTICLE XIV – SUPPLEMENTAL DEATH BENEFIT</td>
<td>15</td>
</tr>
<tr>
<td>ARTICLE XV – SEVERANCE AND DEATH BENEFITS</td>
<td>16</td>
</tr>
<tr>
<td>ARTICLE XVI – ONE YEAR FINAL AVERAGE BENEFITS</td>
<td>17</td>
</tr>
<tr>
<td>ARTICLE XVII – NON-CONFLICT RULE</td>
<td>18</td>
</tr>
<tr>
<td>ARTICLE XVIII – PROMOTION – DETECTIVE</td>
<td>18</td>
</tr>
<tr>
<td>ARTICLE XIX – PLAIN CLOTHES DUTIES</td>
<td>18</td>
</tr>
<tr>
<td>ARTICLE XX – WORKING CONDITIONS</td>
<td>18</td>
</tr>
<tr>
<td>ARTICLE XXI – RE-NEGOTIATION</td>
<td>20</td>
</tr>
</tbody>
</table>
Agreement, made this 4th day of December 2012, by and between THE TOWN OF RIVERHEAD, a municipal corporation, having its principal office at 200 Howell Avenue, Riverhead, New York, hereinafter referred to as the “Town”, and THE RIVERHEAD POLICE BENEVOLENT ASSOCIATION, INC., a membership corporation, having its principal office at 210 Howell Avenue, Riverhead, New York, hereinafter referred to as either the “PBA” or the “Employee” or “Employees”.

**ARTICLE I – RECOGNITION**

The Town recognizes the PBA as the sole bargaining agent and representative for all Police Officers and Detectives employed in the Town Police Department.

**ARTICLE II – CHECK OFF**

A. The Town will deduct from the wages of the Employee and pay over to the PBA the dues and other obligations due to the PBA by the Employees who have authorized the Town to do so by individual authorizations in writing. These deductions will be taken out in equal installments on the Employee’s biweekly paycheck.

B. **Agency Shop Fee Deduction** – The Town will notify the PBA of all unit employees who are on the payroll as of each January 1. Employees who are not presently members of the PBA have the right to join the PBA. If they choose not to join the PBA they will have deducted from their salary an agency shop fee which will be an amount equivalent to the amount of dues payable by a member.

**SECTION 1** The agency shop fee will be deducted from the salary of Employees who do not choose to become members and from the salary of Employees whose membership has not yet become effective, provided the PBA furnishes the Town with a
list of the names and titles of those Employees and with proof of service of the written notice specified in Section (B) of this Article II.

SECTION 2 Every Employee who does not join the PBA at the time of appointment, but whose membership has not yet become effective, will have an agency shop fee deducted. If the Employee joins the PBA, the agency shop fee deduction will be discontinued on the same date the dues check-off authorization card takes effect and is received by the Town with written notice from the PBA of the Employee’s status.

SECTION 3 An Employee who terminates PBA membership will have deducted from his/her salary an agency shop fee. The agency shop fee will be effective on the same date as the revocation of authorization for dues deduction, and take effect with notice thereof, in writing, received by the Town from the PBA.

SECTION 4 The agency shop fee for each Employee covered by this Agreement will be deducted from the Employee’s regular paycheck and will be in the amount equal to the periodical dues levied by the PBA for Employees in the affected titles as currently checked off by the Town. The PBA will certify to the Town the appropriate amount or rate for the agency shop fee deduction.

SECTION 5 The PBA will have the exclusive right to the deduction and transmittal of the agency shop fee for unit Employees. The Town will transmit, no later than the first working date of the second month following the month in which the agency shop fee has been collected, the total of the agency shop fee deductions collected at the same rates as are provided for the check-off of membership dues.

SECTION 6 Changes in the amount of an agency shop fee deduction will be effective at the same time as is the practice with changes in membership dues deductions, but
not fewer times than the first payroll subsequent to January 1 or July 1, following the
date on which notice of such change is furnished. Request for changes in the rate of
dues deductions will be deemed to be a request for a change in the agency shop fee.

**SECTION 7** Employees having the agency shop fee deducted will be notified, in
writing, by the PBA of the change in the amount of the agency shop fee deductions and
the date on which such new deduction will begin. A copy of this notice will be sent to
the Town.

**SECTION 8** Agency shop fee deductions will be applied to regular payrolls only.

**SECTION 9** In cases of unearned salaries or wages of Employees covered by this
Agreement refunded to appropriation accounts, and in cases of salaries or wages of
Employees covered by this Agreement transferred to “UNCLAIMED” accounts,
necessary adjustments in agency shop fee accounts will be made by recovery from
available unpaid PBA agency shop fee fund balances and returned to the Town.

**SECTION 10** The PBA will refund to the Employees any agency shop fees wrongfully
deducted and transmitted to the PBA.

**SECTION 11** No assessments of any kind or nature will be collected through the
agency shop fee deduction.

**SECTION 12** No arrears of any kind or nature will be collected through the agency
shop fee deduction.

**SECTION 13** The Town will not be liable in the operation of the agency shop fee
deductions for any mistake or error of judgment or any other act of omission or
commission, and the PBA agrees to hold the Town harmless against any claim
whateover arising out of the deduction and transmittal of the agency shop fee to the PBA.

**SECTION 14** Agency shop fee deductions will be considered last in arithmetical sequence when residual amount of pay, after other deductions, is less than the full amount of the agency shop fee deduction, and no fractional amount of agency shop fee deductions will be made nor carried over for deduction in any subsequent payroll period.

**SECTION 15** The PBA affirms that it has established and is maintaining a procedure which provides for the refund, to any employee demanding the same, of any part of any agency shop fee which represents the employee’s pro-rata share of expenditures by the PBA in aid of activities or causes of a political or ideological nature only incidentally related to terms and conditions of employment. It is expressly agreed that in the event the procedure is discontinued, then this Article II, insofar as it relates to agency shop fee deductions, will be null and void.

**SECTION 16** In the event that any provision of this Article II is found to be invalid, the invalidity will not impair the validity and enforceability of the remaining provisions of this Article II.

**ARTICLE III – HOSPITALIZATION AND MEDICAL INSURANCE**

**SECTION 1** A. The Town will pay, on behalf of all Employees, 100% of the cost of either the individual or family (depending on whether the individual is eligible or not) for hospitalization under the Empire Core Plan plus Enhancements. Health insurance coverage will commence upon the first day in the month following the completion of four full calendar months of service for all employees hired after the complete ratification and approval of this Agreement. Health insurance coverage will terminate upon the last day
in the second full month following the completion of employment, except as set forth below.

In the event Employees are eligible for family coverage, 100% coverage will also be provided for his/her family. The plan will also provide that the Town will pay for 100% coverage for individual Employees who hereafter retire from the Department, and the Town will pay 50% of the premiums for the retiree’s family. The Town will provide hospitalization for the families of Employees killed in the line of duty until the spouse remarries and/or the children attain the age of emancipation, whichever comes first. If an unemancipated child is not eligible for health insurance coverage upon or subsequent to the remarriage of the spouse, then the Town’s coverage for that child will continue until emancipation or the child becomes eligible for comparable coverage at no additional premium cost.

If two persons are currently receiving (or are eligible to receive) family health coverage benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual coverage will not be entitled to the health insurance buyout. Should that person choose to decline to receive individual coverage, then that person will be eligible for the buyout of the individual coverage.

B. An Employee may elect to change enrollment in the health insurance plan from family coverage to individual or no coverage, or from individual coverage to no coverage. In this event, the Employee will receive 45% of the savings to the Town, provided the Employee remains in such changed status for a period of twelve (12) consecutive months. Payment will be made annually thereafter during June or
December first following the end of the 12 month period, provided that the Employee remains in the changed status. Employees who change enrollment mid-year during the first year that this provision is implemented will receive payment on a prorata basis. Nothing in this provision will preclude an Employee from reenrolling in his/her previous coverage within the 12 month period, provided however, that if the Employee does so in fewer than 12 months, no payment will be made. Effective December 4, 2012, this paragraph will be deleted.

Effective December 4, 2012, an Employee may elect to change enrollment in the health insurance plan from family coverage to individual or no coverage, or from individual to no coverage. In this event, the Employee will receive 45% of the savings to the Town, provided that the Employee: (a) has submitted to the Town documentation showing that he/she has health insurance coverage other than through the New York State Health Insurance Plan; and (b) remains in the changed status for a period of 12 consecutive months. The 12-month period will coincide with the annual option transfer period. Payment will be made annually during the June or December first following the end of the 12-month period, provided that the Employee remains in the changed status. Nothing in this provision will preclude an Employee who experiences a qualifying event and who has submitted the Town adequate documentation of that event from re-enrolling in his/her previous coverage within the 12-month period, provided, however, that if the Employee does so in fewer than 12 months, no payment will be made.

C. The Town will have the option to change health insurance carriers after at least 30 days' prior written notice of its intention, provided (a) that a copy of the
proposed replacement coverages accompany the notice, and (b) that the coverages will be, in all respects, comparable to or better than that which currently exists.

**SECTION 2 – DENTAL PLAN** The Town will pay, on behalf of all Employees, 100% of the cost of either the individual or family plan for dental coverage under the terms provided by the Riverhead Town Dental Plan. Dental insurance coverage will commence upon the first day in the month following the completion of four full calendar months of service. Dental insurance coverage will terminate upon the last day in the second full month following the completion of employment. The Town will provide the Riverhead Town Dental Plan for the families of Employees killed in the line of duty until the spouse remarries and/or the children attain the age of emancipation, whichever comes first. If an unemancipated child is not eligible for dental insurance coverage upon or subsequent to the remarriage of the spouse, then the Town’s coverage for that child will continue until emancipation or the child becomes eligible for comparable coverage at no additional premium cost.

If two persons are currently receiving (or are eligible to receive) family dental coverage benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual coverage will not be entitled to the dental insurance buyout. Should that person choose to decline to receive individual coverage, then that person will be eligible for the buyout of the individual coverage.

**SECTION 3 – OPTICAL PLAN** The Town will pay, on behalf of all Employees, 100% of the cost of either the individual or family plan for optical coverage under the Riverhead Town Optical Plan. Optical insurance coverage will commence upon the first day in the
month following the completion of four full calendar months of service. Optical insurance coverage will terminate upon the last day in the second full month following the completion of employment. The Town will provide the Riverhead Town Optical Plan for the families of Employees killed in the line of duty until the spouse remarries and/or the children attain the age of emancipation, whichever comes first. If an unemancipated child is not eligible for optical insurance coverage upon or subsequent to the remarriage of the spouse, then the Town's coverage for that child will continue until emancipation or the child becomes eligible for comparable coverage at no additional premium cost.

If two persons are currently receiving (or are eligible to receive) family optical coverage benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual coverage will not be entitled to the optical insurance buyout. Should that person choose to decline to receive individual coverage, then that person will be eligible for the buyout of the individual coverage.

**ARTICLE IV – HOLIDAYS**

The Town recognizes the following paid holidays for all Employees:

- New Year's Day
- Martin Luther King's Birthday
- Lincoln's Birthday
- Washington's Birthday
- Easter Sunday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Election Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day
The Employees will receive no time off for these holidays, but will be paid an additional day's pay for each of these holidays, according to the daily pay rate of each individual, which compensation will be paid covering the first six holidays listed in the second pay period, during the period June 15th to June 25th, and will be paid covering the last seven holidays listed on December 7th or the first business day following December 7th. Employees actually working on any of these holidays will be paid an additional one half day's pay for each day. The Town will deduct State, Federal and FICA tax from holiday pay unless directed in writing by the Employee to do otherwise. The daily rate of pay will be calculated using a 238 day work year, except the daily rate of pay for an Employee during his/her first 18 months will be based on a 260 day work year, and except further that it will be for the first 24 months for an Employee hired on or after January 1, 1997. Holiday pay will not be earned by those Employees on an unpaid leave of absence or those Employees under suspension for more than 30 consecutive calendar days during the pendency of disciplinary charges.

**ARTICLE V – ADDITIONAL VETERANS HOLIDAYS**

An Employee who is a veteran and works on either Memorial Day or Veterans' Day will have compensation which will include, in addition to all other entitlements, cash overtime at the rate of time and one half for each hour worked. An Employee who is a veteran and does not work on either Memorial Day or Veterans' Day will have compensation which will include, in addition to all other entitlements, one day's pay on a cash basis.
ARTICLE VI – RECALL AND STANDBY

A. Any Employee who is on call duty and not called in will be compensated at the rate of two hours for every eight hours so directed. If any Employee is called in while on call duty, the Employee will forego the call duty pay and be compensated under Section (B).

B. Any Employee, including Detectives, recalled after the Employee has finished his/her tour of duty and is immediately directed to engage in regular police work, will receive a minimum of four hours credited as time worked at the applicable overtime rate and will receive a minimum of two hours credited as time worked at the applicable overtime rate when required to report to Court or other governmental agency, in direct connection to the Employee’s police duties or work. Recalled Employees may be required to work the full amount of the minimum recall for which they are paid.

C. Any fees received by an Employee for appearances before a Court or other governmental agency will be turned over to the Town.

D. The Town agrees to pay Employees the I.R.S. mileage rate then in effect. The Town agrees to provide a police unit, if one is available.

ARTICLE VII – BEREAVEMENT LEAVE

Employees will be entitled to four consecutive working days’ leave of absence computed either from the day of death or the day following death at the Employee’s option, for death of the Employee’s spouse, child (including adopted children), father, mother, brother, sister, parents, parents-in-law, grandparents, grandparents-in-law, grandchildren, daughter-in-law, brother-in-law, sister-in-law, son-in-law, step-brother, step-sister or stepchild.
ARTICLE VIII – OVERTIME AND NIGHT DIFFERENTIAL

A. All Employees, other than Detectives, who work in excess of their basic work
week or tour of duty [40 hours a week, or eight hours a day] will be paid overtime
compensation at the rate of one and one-half times the employee’s regular entitlement.

B. All Employees who work regularly scheduled tours between 4 p.m. and 8 a.m.
will be paid night differential at the annual rate of $4,100. Effective January 1, 2011, all
Employees who are regularly assigned to the experimental steady midnight tour will be
paid night differential at the annual rate of $6,450.

All Employees who regularly work a two tour rotating schedule that includes a
3:30 p.m. to 11:30 p.m. tour will be paid night differential at the annual rate of
$4,300.

Payment will be prorated on a monthly basis, and paid semiannually when
receiving holiday pay.

C. All Employees assigned to the K-9 Unit who work regularly scheduled rotating
tours between 4 p.m. and 8 a.m. will be paid at the annual rate of 50% greater than the
current night differential. Payment will be prorated on a monthly basis, and paid
semiannually when receiving holiday pay.

D. In calculating overtime under any provision of this agreement, the longevity
part of the base will be frozen at the December 31, 1978, longevity position only for all
overtime below the applicable FLSA cap. Overtime will be calculated on base pay using
a 238 day (1904 hours) work year, except all Employees hired on or after December 16,
2008 for the first 30 months of service will have the overtime calculation based upon a
260 day (2080 hours) work year. For all overtime at or above the applicable FLSA cap, longevity pay will be included in the base as required by law.

E. Subject to Town Board meeting dates, the Town will pay overtime in separate checks on a bimonthly basis. Overtime is to be included in a timely submitted biweekly time sheet, and will then be paid in the next biweekly paycheck. The Town will deduct Federal, State and FICA taxes from overtime and night differential pay unless directed in writing by the Employee to do otherwise.

F. Field Training Officer: Each Employee designated by the Chief of Police as a Field Training Officer (FTO) will be paid one-half hour in cash at time and one-half for each day actually spent in field training of probationary police officers as compensation for time spent preparing paperwork related to such duties. In order to receive compensation for a particular day, the FTO must submit all relevant paperwork to the Chief or his/her designee within one-half hour of the end of the FTO’s tour.

ARTICLE IX – VACATION

A. The vacation schedule will be as follows:

During the first two years of service, an Employee’s vacation will be prorated based upon 10 working days’ vacation per year. The rate of accumulation will be 6.6 hours per month.

Over two years of service, 17 working days
Over five years of service, 19 working days
Over 10 years of service, 24 working days
Over 15 years of service, 27 working days
Over 21 years of service, 30 working days
Vacation may carry into the following year a maximum of up to two years of accruals and in no event may the maximum be exceeded.

B. No vacation time will be taken by Employees who are in their first year of employment. However, the Town will provide sick days and personal days in accordance with the provisions of the Agreement.

C. Vacation selection will be based upon the length of continuous service within the Department, subject to the Chief’s sole discretion in determining the operating requirements in the Department.

D. Vacation will be credited to an Employee for each calendar year on the anniversary date of employment, except in the year of his/her retirement, when vacation will be prorated and credited at the end of each full month worked. In no event will an Employee be paid for more than 60 vacation days upon retirement.

**ARTICLE X – PERSONAL DAYS**

An Employee will be granted four days’ personal leave per annum for conduct of personal business. Employees may accumulate personal days for three years. Personal business will be defined as those matters relating to a personal, legal, family, religious or household need which cannot be performed or attended to by the Employee during times other than the regularly scheduled tour of duty of the Employee. Except in cases of emergency, as determined by the Chief of Police at his/her sole discretion, or if the Department is unable to fill the resulting vacancy through overtime, all personal leave requests that are submitted seven or more days prior to the requested date will be granted. If the request for a personal day is submitted fewer than seven days before the requested day, or if another Employee has already been granted the same day off,
the request for personal leave will be granted at the discretion of the Chief of Police or his/her designee.

**ARTICLE XI – LONGEVITY PAY**

A. Longevity payments will be based on the present year’s salary and the percentages will be taken therefrom. Employees will be paid longevity based on the following schedule:

- Four percent of the total base pay after 10 years of service.
- Six percent of the total base pay after 15 years of service.
- Seven percent of the total base pay after 18 years of service.

B. For Employees employed as of January 1, 1979, service under this Article XI shall include time served as a member of any police force in New York State on a full-time basis.

**ARTICLE XII – EXCUSE FROM DUTIES OF THE PBA REPRESENTATIVES**

A. During the negotiations by the representatives of the PBA and the Town for renewal or change of a collective bargaining agreement, the negotiators for the PBA will be excused from their duties in the Department, provided the period of negotiations is reasonable and necessary. The negotiators for the PBA will not exceed four members, exclusive of counsel and stenographer.

B. The PBA President and Vice President, or delegates to any bona fide police organization of which the PBA is an associated member, upon approval of the Chief of Police, will have the right to attend meetings and conventions to which the PBA belongs, in pursuance of their obligations as officers or delegates of the PBA, without loss of pay or time, and in accordance with requirements of the Audit and Control
Bureau of the New York State Comptroller’s Office. The PBA President, upon approval of the Chief of Police, will also have the right to attend meetings honoring members of the PBA.

The PBA will be entitled to a pool of 80 days of release time for conducting PBA business, to be given to Employees designated by the PBA President. The President will inform the Chief of Police in writing at least one week prior to a Employee being released for PBA business. The Chief will have the right to deny a specific request for leave time for good and sufficient reasons which will be neither arbitrary nor capricious.

**ARTICLE XIII – DUTY TOURS**

A. Employees will continue to work the duty chart currently in effect and as issued by the Chief of Police.

B. The number of work days will be 238 per year. All Employees hired on or after January 1, 1997 will work 260 days per year for the first 24 months of service. All Employees hired on or after December 16, 2008, except for those who have completed 36 or more months of service in a New York State Police Department prior to the date of hire by the Town, will work 260 days per year for the first 30 months of service.

**ARTICLE XIV – SUPPLEMENTAL DEATH BENEFIT**

The Town has adopted Section 360-b of the Retirement and Social Security Law providing the supplemental death benefit for Employees who decease while active members of the Department. The Town will make a $10,000 contribution for an Employee who is killed in the line of duty to the Employee's spouse or his/her estate.
ARTICLE XV – SEVERANCE AND DEATH BENEFITS

A. Unused compensatory time, overtime, holiday and vacation pay will be paid over to the Employee, the Employee’s spouse, or the Employee’s estate within 30 days of the Employee’s termination of employment because of retirement, resignation or death, except for dismissal for cause.

B. Accumulated personal time will be payable at the time of termination of employment due to death or resignation. There will be no payment at the time of retirement or dismissal with cause.

C. All benefits available pursuant to this Article may be payable in up to three installments over three years at the Employee’s option.

D. The Estate of any Employee who dies while still a member of the Department will be entitled to payment for unused accumulated sick leave days credited to the Employee at the time of death pursuant to the provisions of Article XXIII(B), except that the Employee need not have met the 100 day threshold.

E. Retirement Benefits.

1. Accrued benefits for which payment may be made upon retirement pursuant to this Article will not be made if the retiring Employee provides the Town with fewer than four months’ notice of his or her intention to retire, unless it is determined by the Town Board that unusual and extenuating circumstances made the giving of a full four months’ notice impossible, and provided that an application will be deemed to be approved if it is not acted upon by the Town Board within 30 days of its submission.

2. If a failure to give at least four months’ notice of intent to retire occurs under any of the following circumstances, unusual or extenuating circumstances will be
presumed to exist unless the Town Board is presented with competent evidence to the contrary:

a. When an Employee has received an offer of employment which is conditioned on acceptance within four months of when the offer was made;

b. When an Employee or employee's wife, husband, son, daughter, father or mother becomes injured, sick or disabled; and

c. When an Employee is compelled by law to render military service.

3. The above provisions are set forth for the purpose of defining those circumstances under which a presumption of unusual or extenuating circumstances exists and does not constitute an exclusive list of all facts and circumstances which may constitute unusual or extenuating circumstances within the meaning of this provision. The decision of the Town Board that unusual or extenuating circumstances do not exist will be grievable pursuant to Article XXVII.

**ARTICLE XVI – ONE YEAR FINAL AVERAGE BENEFITS**

The Town will participate in the 20 year, one-half pay final average annual salary, based on the one year option, non-contributory retirement plans, pursuant to the New York State Retirement and Social Security Law. The Town has also adopted the necessary resolutions to provide the benefits of Section 375-i of the Retirement and Social Security Law. The Town has adopted the New York State Police Retirement System, Section 384-e.
ARTICLE XVII – NON-CONFLICT RULE

During the term of this Agreement, neither party will make any rule or regulation in conflict herewith.

ARTICLE XVIII – PROMOTION – DETECTIVE

Promotions with regard to detective will be accomplished by a procedure which includes a recommendation by the Chief of Police subject to approval by the Town Board by resolution. Notwithstanding the preceding sentence, detectives serving in a grade for five consecutive years will be promoted to the next grade. Time served in grade by Employees assigned as detectives on the date of the implementation of this provision will be credited toward the five consecutive years’ threshold. Nothing herein will modify the Chief’s discretion to recommend a promotion at an earlier time.

ARTICLE XIX – PLAIN CLOTHES DUTIES

Any assignment of an Employee to plain clothes duties will be made by the Chief of Police upon notification of the Town Supervisor. An Employee so assigned will serve at the pleasure of the Chief of Police. Any reassignment of status will be solely at the discretion of the Chief of Police with no recourse to the Employee. Notification of change in duty status will also be made immediately to the Office of Accounting in order to firmly establish the start date for payroll purposes. Upon reassignment out of this classification, immediate notification is to be made to the Town Supervisor and the Office of Accounting.

ARTICLE XX – WORKING CONDITIONS

A. Employees will not be required to wear their hats while performing duty in radio motor patrol cars.
B. An Employee will fully complete preliminary training in a Police Academy prior to the commencement of being assigned to a regular tour of duty, so long as there is an available class at the time of the Employee’s appointment. In the event there is not an available class, the Employee will attend the first available one, but will be allowed to commence his/her regular assignment prior to such classes.

C. All other benefits currently being enjoyed by the Employee, whether by statute, law, ordinance, resolution or precedent will continue to be in effect provided the benefit does not duplicate a similar benefit herein provided.

D. An Employee will be compensated for the replacement cost of a personal item or items lost or damaged beyond repair or for the cost to repair a damaged personal item or items, provided the loss or damage is caused without the Employee’s negligence and is incurred while the Employee is on duty or actually conducting police business, and further provided, that the item or items are of a nature the Employee would reasonably be expected to have in their possession in the course of duty. If an item is replaced, depreciation will be deducted from the cost of the replacement.

The personal items covered by the provisions of this Section will be limited to clothing, equipment and accessories actually being worn at the time loss or damage is incurred, or a personal vehicle when parked at or close proximity to a relieving point, and the damage is caused by criminal mischief or vandalism. A motor vehicle will not be deemed to be operated in the performance of police business when the vehicle is being driven by an Employee to and from the Employee’s home on the Employee’s daily work assignment.
The Employee seeking to collect hereunder must prove to the satisfaction of the Chief of Police that the loss was actually incurred. When a claim is submitted hereunder, it must be accompanied by a sworn statement that the claim was incurred in the course of the Employee's duties as a police officer, together with an executed claim voucher indicating thereon the items, damage or loss, and the approximate original cost thereof, together with the current value including depreciation, if any. These provisions will not be applicable for the annual equipment allowance which each Employee receives.

E. All new radio motor patrol cars will be equipped with air-conditioning, power windows and power door locks.

F. No Employee will be compelled to a polygraph test.

G. If the Police Commissioner/Sheriff issues a pistol permit, pursuant to Penal Law Section 400, to an Employee whose last 10 consecutive years of service preceding retirement from the Town were with the Department in a full-time capacity, the Employee may purchase his/her service weapon upon payment to the Town of its fair market trade-in value, as determined by the Department. The right to purchase the weapon is subject to the Police Chief's individualized discretion.

**ARTICLE XXI – RE-NEGOTIATION**

Upon the mutual agreement between the PBA and the Town, during the term of this Agreement, it may be re-opened for further negotiations for additional benefits for either the Town or for the Employees.
ARTICLE XXII – CLOTHING, EQUIPMENT AND K-9 EXPENSES

A. The Town will provide all Employees with all uniforms and equipment which will include, but not be limited to, a handgun.

B. An Employee will receive an equipment allowance toward the cost of required equipment not furnished by the Department and the cleaning of uniforms in the sum of $1,100. The allowance will be prorated on a quarterly basis for those who do not work a full year in the position. However, if the Employee works in the position for at least one day in any three month period, he/she is entitled to a one quarter share of the allowance.

C. Any Employee assigned to perform duty as a Detective or in plain clothes by order of the Chief of Police for a continuous period of not less than three months will receive an additional allowance in lieu of clothing, on a basis of $900. This clothing allowance will be paid by separate check, not inclusive in the member’s salary, on December 7th or the first business day following December 7th.

D. Any Employee assigned to perform duty as a K-9 Officer by order of the Chief of Police will receive an additional annual allowance of $4,000 to reimburse the Employee for time spent in the care and maintenance of the assigned dog.

ARTICLE XXIII – SICK LEAVE

A. Employees will accrue sick leave at a rate of one and one-fourth days per month to a total of 15 days per year. Sick leave will not be accrued by those Employees on an unpaid leave of absence, or those employees under suspension for more than 30 consecutive calendar days during the pendency of disciplinary charges. In order to be eligible to receive sick leave on any given day, the Employee must, immediately after
contacting the Department pursuant to the Department’s standard procedure for requesting sick leave, also call the FMLA/Sick Line at 727-3200, X777 and advise that the Employee is going to be absent from work that day, as well as whether the Employee is requesting FMLA coverage for the absence because of a serious medical condition.

B. Employees will be permitted to accrue a maximum of 300 days of unused sick leave and will be entitled to receive payment in full upon retirement of a maximum of 227 days payable at the rate in effect at the time of payment and any accumulated sick days from 228 days to 300 days will be paid at the rate of the average salary over the past three years based on a 238 day work year (1904 hours). In order to qualify for this payment, an Employee must have accrued at least 100 sick days at retirement. Prior accumulations will not exceed 300 days. Effective December 16, 2008, and only for those Employees opting to buy back time pursuant to the provisions of Article XLV (Lag Payroll), the 100 day sick leave accrual requirement will be reduced by the number of days bought back and those bought back days may be reaccumulated for sick time but not payout purposes.

C. An Employee may elect to reduce the sick time accrued under paragraph (B) by filing a written election with the Town Clerk before September 1st, in the form provided by the Town, for payment to be made in the last week in January of the following year. Buy-out will be in lots of 10 sick days and will be applied toward the 140 day threshold. No buy-out will be permitted unless at the time of election the Employee has accumulated at least 140 sick days or unless the requested election would reduce the Employee’s total number of accrued days to 60 or fewer. All calculations will be
based upon a 238-day work year. The Employee will be deemed to have satisfied this requirement if, at any time during his/her employment, he/she previously bought out sick time. An Employee who has "bought-out" sick leave during his/her career will be permitted to reaccumulate sick days to a maximum of 300 days, but will not be permitted to reaccumulate for payment purposes and the additional days representing days already "bought-out" may be taken for sick time purposes only. An Employee who has bought back days may still be paid for unused accumulated sick leave days as follows upon the Employee's retirement: (a) the total number of days bought back will, for calculation purposes only, be added back into the employee's unused accrued sick leave at the time of retirement; (b) of the 1st 227 total days, to be determined using the FIFO (first in, first out) method, those not previously bought back will be paid at full pay based on a 238 day work year (1904 hours) as set forth in Section XXIII(B); and (c) of any remaining days exceeding 227 up to but not exceeding 300, those not previously bought back will be paid at the rate of the average salary over the past three years based on a 238 day work year (1904 hours) as set forth in Section XXIII(B). The Employee may reaccumulate bought back days for sick leave usage purposes only, provided the Employee does not exceed 300 total sick leave days at any one time.

D. The Town will be permitted to require a medical certificate at the Town's expense for sick leave absences of less than three days' duration and at the Employee's expense for absences of three days' duration or longer.

E. Employees absent on sick leave will notify the ranking officer in charge of the tour prior to two hours before the scheduled tour of duty. The Chief of Police may grant advanced sick leave not to exceed 30 days to an Employee's account. Notwithstanding
the foregoing, the Town, in its sole discretion, may provide additional sick leave over
and above the maximum accumulation of 300 working days. Sick leave will only be
considered absence necessitated by actual illness or physical disability.

F. If, at the time of purchasing sick time, an Employee has accumulated 150 sick
days, the Employee will be considered to have reached the 150 day threshold
necessary to receive payment upon retirement. That is, an Employee who has earned
at least 150 sick leave days will not have to accumulate additional days to again reach
the 150 day threshold necessary to receive payment on retirement.

G. Sick Leave Bonus Plan  A $75.00 bonus will be paid to each Employee for
each calendar quarter the Employee has taken one sick day or less.

H. The Employee may be permitted to use up to five earned sick days due to the
serious illness of a spouse where the Employee has exhausted all available personal
days.

I. Child care leaves will be governed by the federal FMLA. An employee will
have the right to file a grievance, or to commence non-contractual litigation, alleging a
violation of the FMLA, but the commencement of one will bar the commencement of the
other.

J. Donated Sick Leave

1. Unit members may donate up to five accrued sick leave days to
another Employee who meets the eligibility criteria set forth below.

2. Eligibility Criteria

   a. At the time of the request, the Employee cannot be the subject
   of pending disciplinary charges, the resolution of which may result in loss of wages.
b. The Employee must be suffering from or have suffered a catastrophic illness or accident, as well as a "serious health condition" pursuant to the FMLA, and have exhausted all accrued time including vacation, sick, personal and/or compensatory time prior to the use of donated sick leave and not be eligible for a disability pension or eligible to retire pursuant to the New York State Employees' Retirement System.

3. If all of the above conditions have been met, then the Employee may use donated sick leave days provided that:

   a. The Employee or, in the event of incapacitation, the Employee's representative, submits a written application, setting forth the nature of the illness, its expected duration, and written permission for the Town Attorney or designee to secure the desired information and verification from the Employee's physician.

   b. After the Town has confirmed that the Employee's illness qualifies him/her to use donated days, the Town will notify unit members of their right to donate up to five accrued sick leave days to the Employee.

4. Restrictions

   a. An Employee will not earn or accrue any leave time during the use of donated sick leave days.

   b. Sick leave donations are non-refundable (i.e., days are not returned to an Employee if they are not used). In addition, donated time has no value to Employees other than as set forth in this section and thus cannot be "cashed-out."
5. Benefits

a. An Employee may use no more than 238 total donated days over the course of his/her career, regardless of the number of approved applications.

b. All donated sick days will be used in calculating a unit member's threshold at severance (Article V(2)), but in no event will unit members be paid for any donated days or for the reaccumulation of those days.

ARTICLE XXIV – ANNUAL PHYSICAL EXAMINATION

All Employees must submit, if requested by the Town, to an annual physical examination by a doctor designated by the Town. Both the Employee and the Town will receive a written report of this examination. Payment for the examination is the responsibility of the Town.

ARTICLE XXV – OUTSIDE EMPLOYMENT

An Employee may be engaged in any other employment off duty that is not in violation of Federal, State or County law with the prior approval of the Chief of Police and with a limit of 20 hours per calendar week. No Employee will engage in any security work whatsoever, either actively or as a consultant or part of management, for any outside entity while employed by the Town.

An Employee may engage in security work for an outside entity with prior notification to the Chief as part of the 20 hour per week limit under the following circumstances: (1) the work and/or entity and/or entity’s corporate headquarters is located outside the Town; (2) the nature of the employer's business is compatible with and appropriate to the employee’s regular police duties (e.g., not an establishment licensed to serve alcohol); and (3) the Employee completes and submits to the Chief an
affidavit prepared by the Town certifying the prospective employer’s name, address and telephone number, the type and nature of the work involved, and that the Employee understands and will abide by the provisions of this paragraph. The Chief will retain the discretion to decide, on a case by case basis, that a particular officer performing this work outside of the Town may carry or use a firearm as part of otherwise approved security work. The Chief’s decision will not be arbitrary or capricious.

**ARTICLE XXVI – BILL OF RIGHTS**

The wide ranging powers and duties given to the Department and its Employees involve them in all manner of contacts and relationships with the public. Out of these contacts come many questions concerning the actions of members of the force. These questions often require immediate investigation by superior officers. In an effort to insure that these investigations are conducted in a manner which is conducive to good order and discipline, the following guidelines are promulgated:

1. The interrogation of an Employee will be at a reasonable hour, preferably when the member of the force is on duty, unless the exigencies of the investigation dictate otherwise. Where practicable, interrogations should be scheduled for the daytime.

2. The interrogations will take place at a location designated by the investigating officer. Usually, it will be at the Police Headquarters or at the place at which the incident allegedly occurred. The Employee may be represented by counsel at all times if he makes such a request.

3. The Employee will be informed of the nature of the investigation before any interrogation commences, including the name of the complainant, although the
address of any complainant and/or witness need not be disclosed. If it is known that the Employee being interrogated is a witness only, the Employee should be so informed at the initial contact.

4. The questioning will not be unduly long. Reasonable respites will be allowed. Time will also be provided for personal necessities, meals, and telephone calls and rest periods as are reasonably necessary.

5. The Employee will not be threatened with dismissal or other disciplinary punishment. No promises of reward will be made as an inducement to answering questions.

6. The complete interrogation of the Employee will be recorded mechanically or by a stenographer if requested by the Employee being interrogated. When the proceedings are recorded, the Employee will be entitled to examine, and make a copy (at the Employee’s expense) of the transcript of such interrogation, if request therefore were made in writing to the Town.

7. In all other cases, there is no obligation, legal or otherwise, on the Department to provide an opportunity for an Employee to consult with counsel or anyone else when questioned by a superior officer about his/her employment or matters relevant to his/her continuing fitness for police service. Nevertheless, in the interest of maintaining the usually high morale of the force, the Town may (but need not) afford an opportunity for an Employee, if he/she so requests, to consult with counsel before being questioned concerning a serious violation of the Rules and Regulations of the Department, provided the interrogation is not unduly delayed. In no event will the interrogation be postponed for the purposes of consulting with counsel past 10:00 a.m.
on the day following the notification of interrogation. Counsel, if available, may be present during the interrogation of an Employee. Requests to consult with counsel in connection with minor violations will be denied unless sufficient reasons are advanced to support the request. Unless otherwise expressly provided herein, all counsel fees and other expenses incurred by an Employee will be paid by the Employee and may not be recovered from the Department or the Town.

**ARTICLE XXVII - GRIEVANCE PROCEDURE**

**A. General Principles**

1. Time limits set forth herein may be extended or diminished only by mutual, written agreement of all parties concerned.

2. Failure at any level of the grievance procedure to communicate a decision to the aggrieved party or his/her representative within the specific time limit will permit the lodging of an appeal at the next level of the procedure within the time which would have been allotted had the decision been communicated by the final day.

3. If a grievance is sustained, the remedy will not exceed or cover more than 30 calendar days before the date on which the grievance was filed.

**B. Grievance Procedure**

A "grievance" will be defined as any alleged violation of the terms and conditions of the collective bargaining agreement and/or terms and conditions of employment and/or disciplinary procedures and all like matters and any and all disciplinary charges against Employees, excluding disputes concerning line of duty injured status of Employees.
All grievances must be filed as outlined below within 30 calendar days from the date on which the event or condition constituting the grievance occurred, or the date on which the grievant knew or reasonably should have known of the event or condition, whichever is later.

There will be four procedural steps as follows:

**First Step**

The first procedural step will consist of the Employee’s presentation of the grievance in writing to his/her immediate supervisor and the PBA. A written decision or determination thereon will be made by the immediate supervisor within 10 calendar days from the time of submission. A copy of the decision will be mailed to the aggrieved Employee, the PBA and the Chief of Police.

**Second Step**

1. If the PBA is not satisfied with the decision at Step 1, it may appeal the grievance to the Chief of Police by written notice within 15 calendar days from the date of the decision at Step 1.

2. Within 15 calendar days after receipt of the appeal, the Chief of Police will render a decision. A copy of the decision will be mailed to the aggrieved Employee and the PBA.

**Third Step**

1. If the PBA is not satisfied with the decision at Step 2, it may submit the grievance in writing to the Town Board within 15 calendar days of the date of the decision at Step 2.
2. Within 15 calendar days after receipt of the appeal, or at its next regularly scheduled meeting, whichever is later, the Town Board will consider the grievance in Executive Session.

3. Within seven calendar days after it has completed its consideration of the grievance, the Town Board will render a written decision on the grievance. A copy of the decision will be mailed to the aggrieved Employee, the PBA and the Chief of Police.

**Fourth Step**

1. Only the PBA or the Town can submit an alleged grievance to binding arbitration.

2. The filing for arbitration must be done by means of a written notice within 15 full working days from the date that the decision of the Town Board is received by the PBA.

3. In the event that the parties are unable to agree upon the designation of an Arbitrator, within 15 calendar days after the decision to arbitrate is made, an Arbitrator will be selected in rotating alphabetical order from the following panel: Stephen Bluth, Howard Edelman, Arthur Riegel and David Stein. Any arbitrator(s) may be removed from the panel by a party upon written notice to the other to be received by that party by not later than December 1 each calendar year. Should this occur, the parties will immediately meet to attempt to agree upon a replacement(s). Failure to agree upon a replacement(s) will not be subject to the grievance or arbitration procedure, PERB or court jurisdiction, or other third party review, except that, if the panel contains fewer than four names for one or more months, then a party will have the
unilateral option, on written notice to the other, to replace the panel for grievances not then pending with arbitration through the AAA as specified in the 2005-2007 Agreement.

4. The Arbitrator will be limited to the terms and conditions set forth in this Agreement, and will have no power to add to, delete from, or otherwise modify any of its terms.

5. The fees and expenses of the Arbitrator will be borne equally by the Town and the PBA.

6. The election to proceed under this Agreement’s Grievance Procedure to arbitration will act as a waiver of that party’s right to seek a remedy in any other forum. When the Town has preferred disciplinary charges against an employee, Town Law § 155 will apply, except that the Employee will have the right to elect to have the charges determined pursuant either to arbitration (in which case the grievance will be filed at Step 4 by the employee rather than the PBA, and the 15 working days referenced in paragraph 2 will commence upon the Employee’s receipt of the disciplinary charges) or a hearing conducted pursuant to Town Law § 155, but not both.

**ARTICLE XXVIII – SPECIAL POLICE OFFICERS**

Recognition of the Town’s right to employ Special Police Officers notwithstanding, the Town agrees to refrain from the use of Special Police Officers except in the following situations:

1. Enforcement of the Town Code.
2. Crowd Control – Fairs, Parades, and Town Park Events.
3. Traffic Control.
4. Foot Patrols of Business Area.
5. Disasters – When most of the Police Department is called in storms, etc.).

6. As second Officer on an escort and second Officer on marine unit.

7. Patrol during special affairs.

8. At any time when regular Police Officers are unavailable.

Unavailable will mean that no regular Officer is available to work.

**ARTICLE XXIX – NO STRIKE PLEDGE**

The PBA, on its own behalf, and on behalf of its own individual members, affirms that there will be no strike, job action taken or other interruption of work during the life of this Agreement or at any other time.

**ARTICLE XXX – LEGISLATIVE ACTION REQUIREMENT**

It is agreed by and between the parties hereto that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefor, shall not become effective until the appropriate legislative body has given its approval.

**ARTICLE XXXI – BINDING EFFECT**

This Agreement will be binding upon the parties hereto, their successors and assigns, by the operations of law or contract.

**ARTICLE XXXII – TERM OF AGREEMENT**

This Agreement will be effective for the period of time from January 1, 2012 through December 31, 2015, inclusive.
ARTICLE XXXIII – PARTIAL INVALIDITY

If any provision of this Agreement will be held to be invalid or unenforceable by a court of competent jurisdiction, all other provisions of same will, nevertheless, continue in full force and effect.

ARTICLE XXXIV – VESTS

All Employees who have been issued bulletproof vests will be required to wear them while on duty.

ARTICLE XXXV – DEFERRED COMPENSATION PLAN

As per Town Board Resolution #193 as approved March 5, 1985, and to the extent permitted by the U.S. Internal Revenue Code and the New York State Income Tax Laws, Employees may elect to participate in the Town of Riverhead Deferred Compensation Plan ("457").

ARTICLE XXXVI – EDUCATIONAL INCENTIVE

An Employee who earns his/her bachelor’s degree while employed by the Town will receive a yearly stipend of 2% of base pay. An Employee who earns a postgraduate degree while employed by the Town will receive a yearly stipend of 1% of base pay. No stipend will be granted for degrees earned prior to employment with the Town. All degrees, in order to be recognized, must be in the field of Police Science or Law and must be received from an accredited university or college. Payment of the education stipend will be made along with the December payment of Holiday Pay.

ARTICLE XXXVII – SALARIES

The salaries for the following Employees for the period January 1, 2012 through December 31, 2015 will be as follows:
Employees Hired Before December 4, 2012

<table>
<thead>
<tr>
<th></th>
<th>1/1/12</th>
<th>1/1/13</th>
<th>1/1/14</th>
<th>1/1/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACADEMY (eff. 1/1/12)*</td>
<td>$38,718.85</td>
<td>$39,493.23</td>
<td>$40,283.10</td>
<td>$41,088.76</td>
</tr>
<tr>
<td>1ST YEAR OFFICER</td>
<td>$59,842.92</td>
<td>$61,039.78</td>
<td>$62,260.58</td>
<td>$63,505.79</td>
</tr>
<tr>
<td>2ND YEAR OFFICER</td>
<td>$68,679.90</td>
<td>$70,053.50</td>
<td>$71,454.57</td>
<td>$72,883.66</td>
</tr>
<tr>
<td>3RD YEAR OFFICER</td>
<td>$82,159.10</td>
<td>$83,802.28</td>
<td>$85,478.33</td>
<td>$87,187.89</td>
</tr>
<tr>
<td>4TH YEAR OFFICER</td>
<td>$95,637.15</td>
<td>$97,549.90</td>
<td>$99,500.89</td>
<td>$101,490.91</td>
</tr>
<tr>
<td>5TH YEAR OFFICER</td>
<td>$109,117.50</td>
<td>$111,299.85</td>
<td>$113,525.85</td>
<td>$115,796.36</td>
</tr>
<tr>
<td>DETECTIVE GRADE III</td>
<td>$116,352.76</td>
<td>$118,679.82</td>
<td>$121,053.41</td>
<td>$123,474.48</td>
</tr>
<tr>
<td>DETECTIVE GRADE II</td>
<td>$117,739.39</td>
<td>$120,094.18</td>
<td>$122,496.07</td>
<td>$124,945.99</td>
</tr>
<tr>
<td>DETECTIVE GRADE I</td>
<td>$119,142.32</td>
<td>$121,525.17</td>
<td>$123,955.67</td>
<td>$126,434.78</td>
</tr>
</tbody>
</table>

Employees Hired On or After December 4, 2012

Effective for all employees hired on or after December 4, 2012, there will be a new salary schedule consisting of seven equidistant steps; i.e., seven steps including the Academy Rate. The Academy Rate will be equal to the Academy Rate on the salary schedule for employees hired before December 4, 2012. The 6th Year Officer step will be equal to the 5th Year Officer step on the salary schedule for employees hired before December 4, 2012.

<table>
<thead>
<tr>
<th></th>
<th>12/4/12</th>
<th>1/1/13</th>
<th>1/1/14</th>
<th>1/1/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACADEMY (eff. 12/4/12)*</td>
<td>$38,718.85</td>
<td>$39,493.23</td>
<td>$40,283.10</td>
<td>$41,088.76</td>
</tr>
<tr>
<td>1ST YEAR OFFICER</td>
<td>$50,451.96</td>
<td>$51,461.00</td>
<td>$52,490.22</td>
<td>$53,540.03</td>
</tr>
<tr>
<td>2ND YEAR OFFICER</td>
<td>$62,185.07</td>
<td>$63,428.77</td>
<td>$64,697.35</td>
<td>$65,991.29</td>
</tr>
<tr>
<td>3RD YEAR OFFICER</td>
<td>$73,918.18</td>
<td>$75,396.54</td>
<td>$76,904.47</td>
<td>$78,442.56</td>
</tr>
</tbody>
</table>
4TH YEAR OFFICER  $85,651.28  $87,364.31  $89,111.60  $90,893.83
5TH YEAR OFFICER  $97,384.39  $99,332.08  $101,318.72  $103,345.10
6TH YEAR OFFICER  $109,117.50  $111,299.85  $113,525.85  $115,796.36
DETECTIVE GRADE III  $116,352.76  $118,679.82  $121,053.41  $123,474.48
DETECTIVE GRADE II  $117,739.39  $120,094.18  $122,496.07  $124,945.99
DETECTIVE GRADE I  $119,142.32  $121,525.17  $123,955.67  $126,434.78

* The Academy Rate will be (i) payable until the Employee has completed the Academy, at which point the Employee will move to the level of compensation payable to a "1st YEAR OFFICER" and will be paid at that level for one year thereafter. For example, an individual hired on November 1, 2012 who completed the Academy on April 25, 2012 and reported for regular duty on May 1, 2012 would: (a) be paid the Academy Rate of $38,718.85 from November 1, 2012 through December 31, 2012; (b) be paid the Academy Rate of $39,493.23 for the period from January 1, 2013 through April 30, 2013; and (c) move to the rate of pay for a 1st YEAR OFFICER from May 1, 2013 through April 30, 2014, the rate of pay for a 2nd YEAR OFFICER from May 1, 2014 through April 30, 2015, and so on through his or her 5th year of service.

ARTICLE XXXVIII – DRUG AND ALCOHOL TESTING

A. General Principles

1. The use of illegal controlled substances, including steroids ("illegal controlled substances"), or alcohol by Employees adversely affects the Town's ability to safely deliver services, impairs the efficiency of the workforce, endangers the safety of employees and the public, and undermines public trust. Therefore, the use, sale, distribution, or possession of illegal controlled substances, including steroids ("illegal controlled substances"), or alcohol by any Employee while on duty is prohibited. In addition, Employees are prohibited from being under the influence of illegal controlled substances, including steroids ("illegal controlled substances"), or alcohol while on duty. Employees in violation of this policy are subject to disciplinary action, up to and including discharge.
2. Unless otherwise noted, all discipline under this policy will be in accordance with applicable provisions of law.

3. Any Employee who refuses to submit to testing or who refuses to cooperate with the testing procedures may be subject to discipline, including discharge. Attempts to alter or substitute the testing specimen will be deemed a refusal to take the test.

4. The procedures and provisions of Article XXVI (Bill of Rights) are specifically applicable to this policy and procedure.

B. Testing

1. Employees will be subject to urinalysis testing based upon a reasonable suspicion of illegal controlled substance, including steroids ("illegal controlled substances"), or alcohol use.
   a. The order to submit to testing must be justified by a reasonable suspicion that the Employee is or may be under the influence of illegal controlled substances, including steroids ("illegal controlled substances"), or alcohol while on duty, or is engaging in the use, sale, distribution, or possession of illegal controlled substances, including steroids ("illegal controlled substances"), or alcohol while on duty.
   b. While the "reasonable suspicion" standard does not lend itself to precise definition or mechanical application, vague, unparticularized, unspecified, rudimentary hunches or intuitive feelings do not meet the standard.
   c. Reasonable suspicion is the quantum of knowledge sufficient to induce an ordinarily prudent and cautious person to act under the circumstances. Reasonable suspicion must be directed at a specific person and be based on specific
and articulable facts and the logical inferences and deductions that can be drawn from those facts.

d. Reasonable suspicion may be based, among other things, on the following:

(1) Observable phenomena, such as direct observation of drug or alcohol use or possession and/or physical symptoms of being under the influence of drugs or alcohol; or

(2) A pattern of unusual or abnormal conduct or erratic behavior (e.g., excessive absenteeism, lateness or early leaves); or

(3) Arrest or conviction for a drug-related offense, or the identification of an Employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking; or

(4) Information provided by a reliable and credible source; or

(5) Newly discovered evidence that the Employee has tampered with a previous drug or alcohol test.

e. It is intended that where a decision is made to test, the Employee will be given direct order to submit to the test, and the PBA will be notified of the order. The test will be conducted immediately thereafter. The Employee will be given a brief verbal statement of the basis for reasonable suspicion.

f. Where reasonable suspicion is based on information provided by a confidential informant, defined as an Employee or agent of a governmental law enforcement agency or the Employee’s department, the identity of the source need not be disclosed, except for the name of the governmental law enforcement agency
involved, if any. The Town will not be required to identify a confidential informant in any proceeding, nor can evidence supplied by a confidential informant be suppressed because of a refusal to identify the name of the source.

C. **NEW EMPLOYEES**

All new Employees will be subject to suspicionless testing prior to appointment. Employees found in violation of the Town’s drug/alcohol policy will be subject to immediate discharge.

D. **TEST PROCEDURES**

1. Insofar as practical, the sample collection process will be confidential with due regard for the dignity and privacy of the Employee. There will be no direct observation of giving of urine specimens, unless there is reason to believe that the specimen may be tampered with, in which event direct observation will be made by a person of the same gender as the Employee giving the specimen.

2. Specimens will be collected under the supervision of a monitor designated by the Town. The monitor will mark and seal the specimen to preserve its chain of custody. Thereafter, the specimen will be transported to the testing laboratory in a manner which will ensure its integrity and chain of custody. The laboratory selected to perform testing will be certified by the National Institute on Drug Abuse (NIDA) of the Department of Health and Human Services.

3. Initial urinalysis testing will be conducted by means of an enzyme multiplied immunoassay test (EMIT). All specimens identified as positive on the initial test will be confirmed using a gas chromatography/mass spectrometry test (GC/MS). The laboratory will report as negative all specimens which are negative on either the
initial test or the confirmatory test. Only specimens which test positive on both the 
initial test and the confirmatory test will be reported as positive. Copies of results will be 
sent to the Town and the Employee. All tests conducted pursuant to this procedure will 
be paid for by the Town.

4. In the event the test procedures reveal the presence of illegal controlled 
substances, including steroids ("illegal controlled substances"), or their metabolites or 
alcohol, the Employee may be subject to discipline, including discharge. However, in 
the first instance of such positive drug or alcohol test, any disciplinary charges may be 
suspended in the Town's sole discretion if the Employee agrees in writing to complete 
counseling and treatment on his/her own time for such illegal controlled substance, 
including steroids ("illegal controlled substances"), use or alcohol use in a program 
jointly agreed to by the Town and the PBA. The Employee will agree, as a condition to 
the suspension of the disciplinary charges, that if he or she fails to attend or complete 
the program, he or she will be deemed to have resigned from employment. The 
Employee will also agree, as a condition to the suspension of the disciplinary charges or 
penalty, that for a period of one year following the completion of treatment, he or she 
will be subject to periodic random testing for illegal controlled substances, including 
steroids ("illegal controlled substances"), and/or alcohol, and that, if he or she completes 
counseling and treatment but tests positive for illegal controlled substances, including 
steroids ("illegal controlled substances"), for alcohol during such one year period, the 
Town may reinstitute the suspended charges, in addition to preferring new charges. 
Upon completion of treatment, as outlined above, and the one year period, the original 
disciplinary charges or penalty will be considered resolved. The record of the charges
and their resolution (the charges, the answer and the stipulation) will remain in the Employee’s file unless the parties otherwise agree.

ARTICLE XXXIX – RANDOM DRUG AND ALCOHOL TESTING

Any disputes regarding the interpretation of this Agreement, as distinguished from whether the Agreement has been correctly applied to a particular member(s), will be heard by Arbitrator Marlene Gold.

(A) Policy

It is the policy of the Town to detect and deter the abuse of alcohol, the use and possession of illegal drugs and the abuse of prescription drugs in the workplace. The parties recognize that the use and possession of such substances constitutes a serious threat to the health and safety of all employees and members of the public. Accordingly, the purpose of this Article is to formalize a Town policy that prohibits the use, possession, sale, delivery or being under the influence of illegal substances and/or drugs and/or alcohol while on duty.

(B) Definitions

1. The term "Drug" will include controlled substances as defined in Section 220.00(5) of the Penal Law, State of New York, steroids and marijuana, as defined in Section 220.00(6).

2. The term "Drug Abuse" will include the use of a controlled substance, including steroids ("illegal controlled substances"), or marijuana, which has not been legally prescribed and/or dispensed, and the improper or excessive use of a legally prescribed drug as determined by the Medical Review Officer designated by the Town.
3. The term "Alcohol Abuse" will be a test result of 0.04 or greater.

4. Random Employee Selection Sheet: A computer-generated list of randomly selected Employees identified by employee I.D. numbers.

5. Computer Control Sheet: A computer generated list of all Employees contained within the random drug/alcohol test data base.

(C) Procedure

1. Employees will be subject to random drug and alcohol testing. An Employee may not be required to submit to testing more than one time every two months. The Employee(s) picked will report for testing upon notification if on duty, or on their next working shift.

2. Whenever Employees obtain information or suspect that another Employee may be abusing drugs or alcohol, they will immediately notify the Chief.

3. Refusal to submit - The refusal by an Employee to submit to a drug or alcohol test or the adulteration of such test by the Employee pursuant to the provisions of this order may result in immediate suspension and subsequent disciplinary action which may include dismissal from the Town.

4. Testing Procedures - The following procedures will apply to all random drug and alcohol tests unless otherwise superseded by this Agreement.

   a. Every reasonable effort will be made to maintain Employee confidentiality. In order to insure confidentiality and the integrity of the tests, samples will only be taken at the test location by the authorized medical staff. Sample taking will not be conducted, or otherwise interfered with by the Town or any representative of the Employee. Samples will never be handled or tampered with by the Town or any
representative of the Employee. Samples will not be released to anyone, except as
authorized in this policy or as required by law, without the individual written consent of
the Employee.

b. Each Employee being tested will present his or her shield
and identification card at the test location to ensure proper identification.

c. Each Employee being tested may consult with and be
accompanied by a PBA representative, who may confer with and advise the Employee
before and after the collection process, but will not participate in or interfere with the
process in any way. The representative will be given reasonable advance notice of
when the testing will occur so that he or she may attend. However, the collection
process will not be delayed because the representative is unavailable.

d. Selection of Employees to be selected on a random basis
will be performed by a computer program which will randomly select the employee
number of those to be tested. The random selection of an Employee will not result in
that Employee’s number being removed from such selection process. Effective March
5, 2013, Employees will be selected from a pool consisting of all PBA and Riverhead
Town Police Superior Officers Association, Inc. unit members.

e. The selection will be made by a laboratory licensed or
certified by SAMHSA, HHS. The President of the PBA will be provided with a copy of all
Random Selection Sheets sent to the Town by the laboratory that are used to select
Employees for testing. All designated representatives will affix their signatures to the
random employee selection sheet and computer control sheet.
f. The selection process will not be delayed due to the unavailability of the PBA representative.

g. An Employee selected will be notified and ordered to report for testing. Employees will not be given any advance notice of randomly scheduled tests. The PBA President will be permitted to review the list of members selected for testing and the computer control sheet after all selected Employees have been tested.

h. Employees will not be recalled to duty for random testing on their regularly scheduled days off or if the Employee is on authorized leave.

i. All random employee selection sheets and corresponding computer control sheets will be maintained in the office of the Chief.

j. An Employee will be exempt from a drug test if at the time of selection for that particular test he or she is unavailable due to (i) vacation, (ii) injury, (iii) sickness, (iv) military leave, (v) bereavement leave, (vi) personal leave, (vii) jury duty or (viii) the Employee having notified the Department that he/she has requested admission, but has not yet been admitted to, the Employee Assistance Program.

k. All testing pursuant to this Agreement including, but not limited to, screening or initial testing and confirmatory testing will be performed in compliance with the collection, testing and other requirements promulgated by the U.S. Department of Transportation, Federal Highway Administration.

l. The laboratory administering the test will assure that the appropriate chain of custody is established in order to verify the identity of each sample being tested.
5. **Random Drug Testing Procedures**
   
a. There will be no direct observation of the giving of the urine sample unless there is reason to believe that the sample may be tampered with, in which event direct observation by an authorized individual of the medical staff is permitted. This individual will be a person of the same gender as the Employee providing the sample.

b. Testing will be performed by a laboratory licensed or certified by SAMHSA, HHS. Two separate containers supplied by the testing lab will be prepared by each Employee being tested. Each container will have a code number and date of collection affixed. The specimen will be divided into two samples at the time of collection and will be sealed and initialed in the presence of the Employee.

c. Prior to testing, each Employee will list all medications ingested during the preceding 10 days. The Employee may also list any supplements, vitamins, herbs, foods or other products ingested during that same period. The list will be sealed in an envelope and the Employee’s name and date will be written on the outside. If the test results are negative, the envelope will remain sealed and be destroyed in the presence of the PBA President or designee.

d. Initial drug screening will be by the Enzyme Multiple Immunoassay Testing (EMIT). No sample will be further tested upon a negative screening for controlled substances or marijuana. After a negative screening, the sample will be destroyed.

e. Each and every positive EMIT test will be confirmed using Gas Chromatography Mass Spectrometry test (GCMS). Only if confirmed by GCMS will
a test result in a positive report. In order to be defined as a “positive” result, the initial and/or confirmatory test levels must be at or above those set forth in the applicable federal D.O.T. guidelines.

6. Random Alcohol Testing Procedures
   a. The equipment to be utilized must, at all relevant times, be an approved Evidentiary Breath Testing device (EBT) listed on the National Highway Safety Administration’s “Conforming Products List of Evidentiary Breath Measurement Devices.”
   b. Any alcohol testing equipment utilized pursuant to paragraph one (a) above will, at all times, be accuracy tested, cleaned and in all respects tested and maintained in accordance with the quality assurance plan promulgated by the manufacturer of the equipment. Any alcohol testing equipment utilized will immediately be accuracy tested following any positive test result.
   c. Any alcohol testing under this Agreement will only be administered by technicians with valid training certifications from the manufacturer or a certified Breath Alcohol Technician (BAT) trainer which will be in accordance with Department of Transportation (DOT) Regulations.
   d. No Employee will be ordered to administer, observe or otherwise assist in any way in alcohol testing pursuant to this Agreement.
   e. The parties agree that random alcohol testing will only be performed simultaneously with, and upon the same individuals selected for, random drug testing pursuant to this Agreement.
f. Initial alcohol screening will be conducted by a breath alcohol technician using an individually-sealed mouthpiece opened and attached to the evidential breath testing device ("EST"). The Employee will be asked to blow forcefully into the mouthpiece for at least six seconds or until the EBT indicates that an adequate amount of breath has been obtained. If the Employee states that he/she does not have sufficient air capacity, he/she will be sent immediately for a medical evaluation for verification of the claim. Absence of verification will be considered a refusal. If the result of the screening is an alcohol concentration of greater than 0.04, a confirmation test will be performed between 15 and 20 minutes after the completion of the screening test. Prior to the confirmation test, the EBT will be cleaned and a new mouthpiece will be used. If the first test result is negative, no further testing will be performed. If the confirmation test is negative, the entire test will be deemed negative, and a negative test result will be reported. Samples will be destroyed.

7. Results of Tests

a. Employees who are tested will be notified of the results of all drug/alcohol tests and provided a copy of the corresponding test results, as they become available, at no cost to the Employee as they become available. If the Employee has a drug and alcohol test and intends on introducing the results of such test at his/her disciplinary hearing, the Town will be provided with a copy of the results of the test at no cost and at least 30 days prior to the hearing.

b. Any Employee whose test results in a positive report may, at the time of contact with the MRO, request that the second sample be made available for retesting at the licensed/certified laboratory from a list of such laboratories supplied by
the Town. The Town will be responsible for all costs and expenses in connection with
the retesting. If the retesting results in a negative report, the test will be deemed
negative and all samples will be destroyed.

8. **Confidentiality**

The test results and/or other records released are to be used solely
by the Town to carry out its obligations under the drug and alcohol testing policy,
administering the contractual procedures, taking appropriate disciplinary action, or
where the release is authorized or required by law. For the purpose of administering
the policy, they may only be assessed by a Town employee if designated for that
purpose, the Chief, and the attorney for the Town, and/or their designated medical
experts, or others authorized by the attorney for the Town for the purpose of presenting
evidence in disciplinary matters. If release of these records to others is authorized or
required by law, the Town will, as soon as practicable but not later than the three
business days before the date of actual release, except where otherwise not possible,
provide notification to the Employee or, if not available, to the PBA president (or
designee) listing the records (to be) released and to whom the records were (to be)
released.

9. **Positive Test Results**

   a. **Generally**

      i. All positive test results will be reviewed and verified by a qualified
         Medical Review Officer (MRO) or Substance Abuse professional (SAP) ("MRO"),
         whichever is applicable, designated by the Town, but who will not be a Town employee.
The Medical Review Officer will examine alternate medical explanations for a positive test result. Pursuant to this responsibility, he/she may conduct a medical interview with the Employee, who may be accompanied to the interview by an attorney and/or PBA representative, review the Employee’s medical history or review any other relevant biomedical factors. If the MRO objects, the attorney may not sit in during the interview. In such a case, the Employee may stop the interview at any time for the purpose of consulting the attorney provided that no unreasonable delay results in conducting or continuing the interview. If the member provides appropriate documentation and/or the MRO determines that there is a legitimate medical use of the prohibited drug or alcohol, or an alternate medical explanation exists, then the test results are reported as negative. A negative test result is not reviewable by the Town.

   ii. The Employee may challenge the basis for, and validity of the testing as part of the applicable due process hearing procedures, if any, rather than through the grievance and arbitration.

   b. Positive Alcohol Test

   i. Employees, who test positive for the use of alcohol, after being interviewed by the BAT, will be relieved of duty.

      (a) If the BAC test result is less than .08, but .04 or greater, then the non-probationary employee will be suspended without pay for five working days.

      (b) If the Employee has a BAC of .08 or greater, or has a second positive alcohol test (including a second BAC test result of .08 or greater), then the employee will be suspended without pay for 30 calendar days and directly referred to and immediately enrolled in an Employee Assistance Program. The Employee will fully
and satisfactorily participate in any drug and/or alcohol abuse treatment plan specified by the EAP and will not return to work or be restored to the payroll until he/she has fully and satisfactorily completed the course of treatment. The Employee may utilize his/her accruals during any period of time suspended without pay and/or while enrolled in the EAP. In addition, the Employee will fully execute a consent form to be provided by the Town as a condition of the Town’s willingness not to proceed immediately to a disciplinary hearing against the Employee. If the Employee ever revokes his/her consent, or refuses to fully execute subsequent consent forms deemed necessary by the Town in order for it to satisfactorily confirm the Employee’s full and satisfactory compliance with this Agreement, then the Town will have the right, upon prior written notice to the Employee, to immediately proceed to terminate the Employee’s employment, subject to any applicable due process disciplinary hearing procedures. In this event, the Employee hereby waives any and all rights he/she might otherwise have pursuant to any applicable law, rule, regulation or contract provision to assert the applicable statute(s) of limitation, to which the Employee might otherwise be entitled relating to the termination of his/her employment.

(c) If the Employee has a third positive alcohol test, or is a probationary employee, the Employee will be dismissed from employment, subject to any applicable due process disciplinary hearing procedures.

   ii. The Employee will be restored to the payroll for any period of time not covered by a suspension without pay and during which he/she has not been approved by the SAP to return to work, unless the delay is the fault of the Employee.
iii. Any test result with a blood alcohol concentration below .04 will constitute and be reported as a negative test. This result will not be reflected, in any respect, in any Personnel or other Departmental file.

iv. The penalties set forth in this Agreement pertain only to positive alcohol tests and are separate and distinct from penalties which may be imposed as a result of a positive drug test or other bases for discipline.

v. Any Employee who tests positive for alcohol will be required to submit to and pass a return to work alcohol test before returning to duty. This test will be administered as soon as practical upon the Employee’s return to work and will be performed in conformity with the guidelines established in this Agreement. If the Employee tests positive on a return to work alcohol test, the positive result will constitute an additional offense under this Agreement.

c. Positive Drug Test

i. Employees who test positive for the use of drugs, after being interviewed by the MRO, will be relieved of duty. The Town retains the right to discipline an Employee who tests positive for drug use up to and including dismissal. In the sole discretion of the Town, Employees who test positive for the use of drugs who do not have a history of drug abuse may be referred to the EAP.

ii. Discipline For Positive Test Results: Subject to the restrictions of this policy, the Town has the right to discipline Employees who test positive for drug use.

10. Voluntary Treatment

Employees may voluntarily seek treatment at any time before he/she reports to the laboratory for testing. Employees who voluntarily seek treatment
for substance abuse under the auspices of the EAP will immediately notify the EAP of their desire to participate in the program. The Employee and the representative of the EAP will meet as soon as possible for purposes of discussion on entrance into the program. Any Employee who has voluntarily sought treatment will not be subject to any disciplinary action for that reason.

**EMPLOYEE ASSISTANCE PLAN**

**Policy Statement**

A. The Employee Assistance Program is provided within the following framework:

1. All records pertaining to the Employee Assistance Program will be kept confidential. No information obtained from or about an Employee as a result of his or her participation in the Program will be made available to be used for any purpose unless a "Consent to Release Information" form has been signed by the Employee and acknowledged. The Employee must execute all such forms provided by the Town.

2. The Town assures that the decision to seek or not seek assistance through the Employee Assistance program will in no way be detrimental to an Employee's job security or advancement opportunities.

3. The Town's sole interest in personal concerns is strictly limited to the effect of the problems on an Employee's work performance standards.

4. It is the responsibility of the Employee to meet acceptable work performance standards.

5. It is the responsibility of the Employee's supervisors to implement this Policy by advising the Employee of situations in which they have reason to believe that
a referral to an EAP may be appropriate to address issues of concern to the Town. This Program will not be used for disciplinary action of any kind against the Employee.

6. Sick leave or salary continuance will be provided in accordance with the existing collective bargaining agreement between the Town and the PBA.

**ARTICLE XL – JURY DUTY**

The first six months in the year will be with full pay. All time taken thereafter will be charged against accrued leave time.

**ARTICLE XLI – GENERAL MUNICIPAL LAW SECTION 207-C/WORKERS’ COMPENSATION**

Notwithstanding the provisions of the Workers’ Compensation Law, accrued leave time will be used during the first five days of any absence, unless the Town decides not to controvert the Employee’s claim. If GML 207-c status is awarded to the employee, or if Workers’ Compensation awards the Town reimbursement for any or all of these five days, then the day(s) will be reccredited to the Employee and the Town will provide written confirmation to the Employee of the recrediting within 30 calendar days of notice to the Town of the award of GML 207-c benefits or Workers’ Compensation for the period in issue, unless an appeal is taken from the Workers’ Compensation decision.

**ARTICLE XLII – GENERAL MUNICIPAL LAW SECTION 207-C PROCEDURE**

A. **PURPOSE**

This procedure is intended to regulate the application for, and the award and/or termination of, benefits under Section 207-c of the General Municipal Law ("GML 207-c"). It will operate as a waiver of any other procedural rights the PBA and/or its Members may have pursuant to GML 207-c, including the right to utilize any other forum
to seek redress regarding the subject matter set forth herein. Any future changes enacted by the State in the provisions of GML 207-c that conflict with an explicit provision of this procedure will supersede the preexisting provision.

B. APPLICATION FOR BENEFITS

1. An Employee will continue to be required, as per existing Department rules, procedures, orders, etc. ("rules"), to timely notify the Department of any injury, illness or sickness ("injury") allegedly occurring in or as the result of the performance of the Employee's duties and which necessitates medical or other lawful remedial treatment ("GML 207-c disability"). The notification ("application") will be made on the attached form. The Employee will, along with the application for GML 207-c benefits, complete, sign and submit to the Town any medical release forms requested by the Town.

2. An application will be deemed "untimely" unless it is filed on a timely basis in accordance with the rules and this procedure.

3. Employees will, within two weeks of the occurrence, report to the Chief or designee any sickness or injury to themselves no matter how slight. An Employee's failure to comply with these reporting obligations will result in the denial of an application for benefits under this procedure unless these requirements cannot be met due to (i) the Employee's physical or mental incapacity; (ii) an unforeseeable emergency; or (iii) any other situation which the Chief, in his sole discretion, finds acceptable.
C. **INITIAL APPLICATIONS FOR GML 207-c BENEFITS**

1. The Chief or designee ("the Chief") will have exclusive authority to initially determine the applicant's eligibility for benefits under GML 207-c. The Chief will have the authority to conduct a full investigation of the facts concerning the application.

2. After the filing of the application, the Employee will submit to one or more medical examinations as provided by law. The Employee and health provider will cooperate fully with the designated physician. This will include, but not be limited to, promptly forwarding to the Town Attorney's Office and Accounting Office and designated physician all reports, data, records and other information related to the Employee's injury. Failure to cooperate may result in information being excluded as specified in Paragraph 4 of this Section.

3. Any reports submitted by the Employee's or Department's health provider will include the following information: (a) the exact date(s) that the health provider examined the Employee regarding the injury; (b) an explanation of what the examination consisted of; (c) diagnosis; (d) causation, and the basis for that belief; (e) treatment modalities; (f) what duties, if any, the Employee cannot perform, and for how long; and (g) whether any or all of the duties the Employee cannot perform could be performed with an accommodation(s) and, if so, what the accommodation(s) is (are). The failure to provide information specified in this Paragraph may result in the health provider's report being disregarded by the Town or by the Arbitrator.

4. The Town will render a written decision on the application for benefits within 60 calendar days after receipt of the application specified above. A copy of the decision will be mailed to the Employee by regular and certified mail, return receipt
requested, at the address specified in the application. A copy will also be delivered to
the Accounting and Town Attorney’s Offices. The failure to issue a decision in
accordance with this time limit will result in the Employee being placed on 207-c status.

5. While a decision on an application is pending, time off alleged to be
attributable to the injury giving rise to the claim for GML 207-c benefits will be charged
based on the Department’s initial determination.

6. If the decision is that the Employee is eligible for GML 207-c benefits, then
the Employee will be so categorized and pursuant thereto any time off taken due to
such injury or sickness will be charged to GML 207-c leave, subject to the provisions of
Section E below. The Employee’s GML 207-c benefits will continue as long as the
Employee remains eligible.

7. In the event the Employee is not satisfied with the Town’s decision and
wishes to appeal it, the Town’s and the Employee’s physician will agree upon a neutral
third party physician who will promptly examine the Employee and render a report as
required in ¶ 3. That report will be promptly forwarded to the employee, Accounting and
Town Attorney’s Offices for their review. It will be admissible in evidence, although not
given preclusive effect, at any subsequent stage of this procedure.

8. In the event that the neutral third party physician’s report does not
satisfactorily resolve the parties’ dispute, such that the Employee is not satisfied with
the Town’s decision and wishes to appeal it, the Employee will file with the Town within
30 days of receipt of the decision a written demand for arbitration on the GML 207-c
claim. The parties to the arbitration will be the Town and the Employee. There will be a
single arbitrator (“the Arbitrator”), who will be selected in accordance with the
procedure set forth in Article XXVII(B)(Fourth Step). All costs billed by the Arbitrator will be borne equally by the Town and the Employee. All other costs will be paid by the party incurring them; e.g., witnesses, exhibits, transcripts, etc.

9. The Arbitrator will have the authority to decide, whether the Town's denial of the claim of entitlement to GML 207-c benefits was arbitrary and capricious. He or she will have authority to consider and decide all allegations and defenses made with regard to the GML 207-c claim. In the event of a dispute between the parties as to the nature of the proceeding, the Arbitrator will first decide whether the proceeding represents an issue of an applicant's initial entitlement to GML 207-c benefits or whether the proceeding presents a different issue that should be decided in a different proceeding, as outlined below.

10. The Arbitrator will have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this procedure, the Collective Bargaining Agreement and the rules. The Arbitrator will have no authority to make a decision on any issue not submitted or raised by the parties.

11. The decision and award of the Arbitrator will be final and binding on the parties.

D. REPORTS

1. An Employee determined to be entitled to disability benefits will advise the Chief in writing of any change in his or her status (e.g., any improvement in physical or mental condition during the disability), but in no event less than once per month.

2. The reports must be filed by the unit member with the Chief, or his designee, in person unless it is medically impracticable for the Employee to do so.
3. The reports will set forth: (a) the status of the injury; (b) the name of any doctor or other medical personnel who examined or treated the employee during the period being reported upon; (c) the treatment prescribed; (d) the estimated length of the recovery period; (e) whether the Employee is capable of performing any work for the Department despite his/her injury.

E. **ALLEGED RECURRENCE OR AGGRAVATION OF PRIOR INJURY**

1. In the event that the Employee or the Department alleges that an injury is a recurrence or aggravation of a prior injury, the procedures set forth in Section C will be implemented.

2. The Employee will submit to the Town Attorney's Office and Accounting Office any previously unsubmitted health care provider(s) report(s) upon which the Employee intends to rely at the hearing immediately upon receiving same from the care provider. If a relationship is found between the alleged recurrence or aggravation of a prior injury, and the prior injury was designated by the Town as a GML 207-c injury, then the application will be granted, provided the Arbitrator otherwise finds the Employee entitled to GML 207-c benefits as set forth in Section C. If no relationship is found, then the claim will be treated as an initial injury and the matter will be processed pursuant to Section C.

F. **TERMINATION OF BENEFITS/RETURN TO DUTY**

1. The Town may review cases of Employees receiving GML 207-c benefits for the purpose of determining whether the Employee continues to be entitled to those benefits and in furtherance thereof may take such action as is appropriate under the law.
2. Any Employee who is receiving benefits under GML 207-c continues to be subject to rules and regulations of the Department.

3. Upon receipt of a certification from the Town designated physician that a Employee is able to perform some or all of the duties of his or her position, or upon receiving information wherein the Department asserts the Employee is no longer eligible for 207-c benefits, the Town may notify the Employee of same. The Town will notify the Employee by serving a written notice of proposed termination, setting forth the effective date thereof and a copy of the physician's certification, upon the Employee by regular mail and certified mail, return receipt requested. The effective date may be no sooner than 48 hours after notification. A copy will also be delivered to the Accounting Department and the Town Attorney.

4. If the Employee disagrees with the Town's determination, he or she will commence an appeal pursuant to the procedures outlined in Section C(7). While pending the member will remain on 207-c status. However, if more than 60 calendar days elapse from the effective date of the Town's notification to the Employee and the final resolution of the dispute, that time will be charged against the Employee's accrued leave time. In the event that the Employee's GML 207-c status is confirmed when the matter is finally resolved, any leave time used as a result of the operation of this provision will be recredited to the Employee. If the Employee disagrees with the Town's determination, he or she will commence an appeal pursuant to the procedures outlined in Section C(7). The Employee will submit to the Town Attorney's Office any previously unsubmitted health care provider(s) report(s) upon which the Employee intends to rely at the hearing immediately upon receiving same from the care provider. While pending,
the Employee will remain on 207-c status. However, if more than 60 calendar days elapse from the effective date of the Town's notification to the Employee and the final resolution of the dispute, any time in excess of the 60 day period will be charged against the Employee's accrued leave time; except that, if the Employee in good faith indicates that he/she is ready, willing and able to go forward on a day or days agreed upon by the arbitrator and counsel for the Employee and Town and, in fact, goes forward and presents his/her case within that 60 day period, or a scheduled arbitration hearing is adjourned at the request of the Town or the arbitrator, than the 60 day period will be extended to 90 days. In the event that the Employee's GML 207-c status is confirmed when the matter is finally resolved, any leave time used as a result of this provision will be recredited to the Employee.

5. Any arbitrator selected to hear a case under this Section must agree to hear the case within 30 days of the date of selection and render an opinion within 30 days thereafter.

G. OTHER PROVISIONS

1. In the event that any portion of this procedure is invalidated by a decision of a tribunal of competent jurisdiction, then that portion will be of no force and effect, but the remainder of this procedure will continue in full force and effect. In this event, either the PBA or the Town will have the right immediately to reopen negotiations with respect to a substitute for the invalidated portion.

2. An Employee may have an attorney of his or her choice or an Employee of the Department as his or her representative at any stage of this procedure, provided there is no unreasonable delay.
3. Evidence pertaining to an Employee’s application for benefits pursuant to the Workers’ Compensation Law, including, whether or not the application was controverted, granted or denied, will not be given any preclusive effect in any stage of this procedure, but will be admissible as evidence to be given the weight deemed appropriate by the Arbitrator.

**ARTICLE XLII – NEW YORK STATE COLLEGE SAVINGS TUITION PROGRAM**

The Town has implemented a payroll deduction for those unit members desiring to avail themselves of same for the New York State College Savings Program. Prior to making any payroll deductions for a particular Employee, the Employee will execute a release indemnifying, saving and holding the Town and any and all of its employees, representatives, officers and/or members of the Town Board (collectively “employees”) harmless against any and all claims, demands, suits or other forms of liability, including legal expenses, that may arise out of, or by reason of, any action taken or not taken by the Town or any of its employees for the purpose of complying with this payroll deduction agreement, the NYSCSP and/or law.

**ARTICLE XLIII – LEAVES OF ABSENCE**

A new article will be added confirming the entitlement of Employees to apply for an unpaid leave of absence of up to one year, and providing that a failure to return from such an unpaid leave at its expiration will constitute abandonment of the Employee’s position with the Town and a waiver of whatever Due Process protections might otherwise be applicable.
ARTICLE XLIV - PAYROLL

Effective December 7, 2008, a lag payroll will be implemented for all Employees as follows:

A. Employees whose pay checks are not subject to a two week payroll lag as of December 16, 2008 will receive their regular pay checks for the pay period of December 7, 2008 through December 20, 2008 on December 31, 2008, rather than on December 18, 2008 as scheduled.

B. Pay checks will be issued every other Thursday.

C. Any retroactive base salary increases owed by the Town to Employees as a result of the implementation of the provisions of the 2008-2011 Agreement will be paid on December 18, 2008.

D. By no later than December 1, 2008, an employee, including one whose retroactive pay check will be inadequate to cover the dollar value of the number of days to be lagged pursuant to this Agreement, may submit a written request to the Accounting Department to buy-back, in single day (eight hour) increments, up to 10 days of unused accrued leave time.

E. Effective March 15, 2011, a five day lag will be implemented in either of the following ways, to be selected by the individual Employee, and based upon the Employee's current daily rate of pay as of the date in 2011 on which the Employee notifies the Town of the chosen option: (1) the entire amount during the March 24, 2011 payroll period; or (2) evenly divided over the course of 20 consecutive pay periods, commencing with the March 24, 2011 payroll period; or (3) the entire amount in the 2nd payroll period during the month of June 2011. The Employee will notify the Town in
writing, on a form to be prepared by the Town, and submitted by the Employee to the Accounting Department by not later than March 21, 2011. New members will notify the Town of their selection on or before the commencement of their employment, with the amounts and implementation dates set forth above to be prorated by the Town to best effectuate the intent of this Agreement. If the Employee fails to make a timely selection, then the Town will implement option (2). All monies lagged pursuant to this Agreement will be repaid to the affected Employee at the Employee’s daily rate of pay at the time of the Employee’s separation from employment.

IN WITNESS WHEREOF, the TOWN has caused this Agreement to be signed by its Supervisor, by order of the Town Board; and the PBA has caused this Agreement to be signed by its President, by order of its members.

TOWN OF RIVERHEAD

BY: ____________________________
Sean Walter
SUPERVISOR

1/22/15

RIVERHEAD POLICE BENEVOLENT ASSOCIATION, INC.

BY: ____________________________
Dixon Palmer
PBA PRESIDENT
LABOR CONTRACT
Between the
TOWN OF RIVERHEAD
and the
RIVERHEAD TOWN POLICE
SUPERIOR OFFICERS
ASSOCIATION, INC.

2012-2015
TOWN OF RIVERHEAD

Resolution #146

AUTHORIZES THE SUPERVISOR TO EXECUTE A STIPULATION OF AGREEMENT WITH THE RIVERHEAD TOWN SUPERIOR OFFICERS ASSOCIATION, INC.

Councilman Dunleavy offered the following resolution,

which was seconded by Councilman Wooten.

NOW THEREFORE BE IT RESOLVED,

RESOLVED, that the Town Board hereby ratifies and approves the provisions of the stipulation of agreement by and between the Riverhead Town Superior Officers Association, Inc. and the Town of Riverhead for the contract covering the years 2012-2015 and authorizes the Town Supervisor to execute same, and be it further

RESOLVED, that the Town Clerk is hereby authorized to forward a copy of this resolution to the Financial Administrator, Personnel Director, SOA President, Chief of Police and the Town Attorney; and be it further

RESOLVED, all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Giglio ☒Yes ☐No
Wooten ☒Yes ☐No
Gabrielsen ☒Yes ☐No
Dunleavy ☒Yes ☐No
Walter ☒Yes ☐No

The Resolution Was ☒ Thereupon Duly Declared Adopted
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE #</th>
<th>ARTICLE TITLE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARTICLE I</td>
<td>Recognition</td>
<td>1</td>
</tr>
<tr>
<td>ARTICLE II</td>
<td>Check Off</td>
<td>1</td>
</tr>
<tr>
<td>ARTICLE III</td>
<td>Hospitalization and Medical Insurance</td>
<td>4</td>
</tr>
<tr>
<td>ARTICLE IV</td>
<td>Holiday</td>
<td>6</td>
</tr>
<tr>
<td>ARTICLE V</td>
<td>Additional Veterans Holidays</td>
<td>7</td>
</tr>
<tr>
<td>ARTICLE VI</td>
<td>Recall and Standby</td>
<td>7</td>
</tr>
<tr>
<td>ARTICLE VII</td>
<td>Bereavement Leave</td>
<td>8</td>
</tr>
<tr>
<td>ARTICLE VIII</td>
<td>Overtime and Night Differential</td>
<td>8</td>
</tr>
<tr>
<td>ARTICLE IX</td>
<td>Vacation</td>
<td>10</td>
</tr>
<tr>
<td>ARTICLE X</td>
<td>Personal Days</td>
<td>11</td>
</tr>
<tr>
<td>ARTICLE XI</td>
<td>Longevity Pay</td>
<td>12</td>
</tr>
<tr>
<td>ARTICLE XII</td>
<td>Excuse from Duties of the SOA’s Representatives</td>
<td>12</td>
</tr>
<tr>
<td>ARTICLE XIII</td>
<td>Duty Tours</td>
<td>12</td>
</tr>
<tr>
<td>ARTICLE XIV</td>
<td>Supplemental Death Benefit</td>
<td>12</td>
</tr>
<tr>
<td>ARTICLE XV</td>
<td>Severance and Death Benefits</td>
<td>13</td>
</tr>
<tr>
<td>ARTICLE XVI</td>
<td>One Year Final Average Benefits</td>
<td>14</td>
</tr>
<tr>
<td>ARTICLE XVII</td>
<td>Non-Conflict Rule</td>
<td>14</td>
</tr>
<tr>
<td>ARTICLE XVIII</td>
<td>Working Conditions</td>
<td>14</td>
</tr>
<tr>
<td>ARTICLE XIX</td>
<td>Re-Negotiation</td>
<td>16</td>
</tr>
<tr>
<td>ARTICLE XX</td>
<td>Clothing and Equipment</td>
<td>16</td>
</tr>
<tr>
<td>ARTICLE XXI</td>
<td>Sick Leave</td>
<td>17</td>
</tr>
<tr>
<td>ARTICLE XXII</td>
<td>Annual Physical Examination</td>
<td>19</td>
</tr>
<tr>
<td>ARTICLE XXIII</td>
<td>Outside Employment</td>
<td>19</td>
</tr>
<tr>
<td>ARTICLE XXIV</td>
<td>No Strike Pledge</td>
<td>20</td>
</tr>
<tr>
<td>ARTICLE XXV</td>
<td>Bill of Rights</td>
<td>20</td>
</tr>
<tr>
<td>ARTICLE XXVI</td>
<td>Legislative Action Requirement</td>
<td>22</td>
</tr>
<tr>
<td>ARTICLE XXVII</td>
<td>Binding Effect</td>
<td>22</td>
</tr>
</tbody>
</table>
ARTICLE XXVIII  Partial Invalidity  22
ARTICLE XXIX  Vests  22
ARTICLE XXX  Deferred Compensation Plan  23
ARTICLE XXXI  Education Incentive  23
ARTICLE XXXII  Salaries  23
ARTICLE XXXIII  Drugs and Alcohol  24
ARTICLE XXXIV  Random Drug and Alcohol Testing  27
ARTICLE XXXV  Grievance Procedure  38
ARTICLE XXXVI  Probationary Period  41
ARTICLE XXXVII  Jury Duty  41
ARTICLE XXXVIII  General Municipal Law Section 207-c  41
ARTICLE XXXIX  Leaves of Absence  48
ARTICLE XL  Retention of Service Weapon Upon Retirement  48
ARTICLE XLI  Payroll  48
AGREEMENT made this 5th day of March 2013, by and between THE TOWN OF
RIVERHEAD, a municipal corporation, having its principal office at 200 Howell Avenue, Riverhead,
New York, hereinafter referred to as the “Town,” and THE RIVERHEAD TOWN POLICE SUPERIOR
OFFICERS ASSOCIATION, INC., having its principal office at 210 Howell Avenue, Riverhead, New
York, hereinafter referred to as either the “SOA” or the “Employee.”

ARTICLE I – Recognition

The Town recognized the SOA as the sole bargaining agent and representative for all Sergeants,
Detective Sergeants and Lieutenants employed in the Police Department in the Town of Riverhead,
Suffolk County, New York. No Employee will be an officer (specifically will not be President, Vice
President, Secretary or Treasurer) nor will any Employee be a member of the negotiation team of any
other bargaining organization that negotiates with the Town.

ARTICLE II - Check Off

A. The Town will deduct from the wages of the Employee and pay over to the SOA the dues
and other obligations due to the SOA by such Employees who have authorized the Town to do so by
individual authorizations in writing. These deductions will be taken out of the Employee’s biweekly
paycheck in equal installments.

B. The SOA will notify, in writing, the Town and any Employees covered by this Agreement
who are not members of the SOA of the “agency shop” implementation. This notification will inform
those Employees who are not presently members of the SOA that they have the right to join the SOA.
The notice will further inform the Employees that those who do not choose to join the SOA will have
deducted from their salary an agency shop fee which will be an amount equivalent to the amount of dues
payable by a member.
C. An agency shop fee will be deducted from the salary of Employees who do not choose to become members and from the salary of Employees whose membership has not yet become effective, provided the SOA furnished the Town with a list of the names and titles of such Employees and with proof of service of the written notice specified in Section (A) of this Article II.

D. Every Employee who does not join the SOA at the time of appointment, but whose membership has not yet become effective, will have an agency shop fee deducted, if the Employee joins the SOA, the agency shop fee deduction will be discontinued on the same date the dues checkoff authorization card takes effect and is received by the Town with written notice from the SOA of the Employee’s status.

E. An Employee who terminates SOA membership will have deducted from his/her salary an agency shop fee. This agency shop fee will be effective on the same date as the revocation of authorization for dues deduction takes effect, with notice thereof, in writing, received by the Town from the SOA.

F. The Agency shop fee for each Employee covered by this Agreement will be deducted from the Employee’s regular paycheck and will be in the amount equal to the periodical dues levied by the SOA for Employees in the affected titles as currently checked off by the Town. The SOA will certify to the Town the appropriate amount or rate for the agency shop fee deduction.

G. The SOA will have the exclusive right to the deduction and transmittal of the agency shop fee for Employees. The Town will transmit, no later than the first working day of the second month following the month in which the agency shop fee has been collected, the total of such agency shop fee deductions collected at the same rates as are provided for the checkoffs of membership dues.

H. Changes in the amount of an agency shop fee deduction will be effective at the same times as is the practice with changes in membership dues deductions, but no fewer times than the first payroll
subsequent to January 1 or July 1, following the date on which notice of the change is furnished. Request for changes in the rate of dues deductions will be deemed to be a request for a change in the agency shop fee.

I. Employees having the agency shop fee deducted will be notified, in writing by the SOA of the change in the amount of the agency shop fee deductions and the date on which the new deduction will begin. A copy of this notice will be sent to the Town.

J. Agency shop fee deductions will be applied to regular payrolls only.

K. In cases of unearned salaries or wages of Employees covered by this Agreement refunded to appropriation accounts, and in cases of salaries or wages of Employees covered by this Agreement transferred to “UNCLAIMED” accounts, necessary adjustments in agency shop fee accounts will be made by recovery from available unpaid SOA agency shop fee fund balances and returned to the Town.

L. The SOA will refund to the Employees any agency shop fees wrongfully deducted and transmitted to the SOA.

M. No assessments of any kind or nature will be collected through the agency shop fee deduction.

N. No arrears of any kind or nature will be collected through the agency shop fee deduction.

O. The Town will not be liable in the operation of the agency shop fee deductions for any mistake or error of judgment or any other act of omission or commission, and the SOA agrees to hold the Town harmless against any claim whatsoever arising out of the deduction and transmittal of the agency shop fee to the SOA.

P. Agency shop fee deductions will be considered last in arithmetical sequence when residual amount of pay after other deductions is less than the full amount of the agency shop fee deduction and no
fractional amount of agency shop fee deductions will be made nor carried over for deduction in any subsequent payroll period.

Q. The SOA affirms that it has established and is maintaining a procedure which provides for the refund, to any Employee demanding one, of any part of any agency shop fee which represents the Employee’s pro rata share of expenditures by the SOA in aid of activities or causes of a political or ideological nature only incidentally related to terms and conditions of employment. It is expressly agreed that in the event this procedure is discontinued then this Article II, insofar as it relates to agency shop fee deductions, will be null and void.

R. In the event that any provision of this Article II is found to be invalid, the invalidity will not impair the validity and enforceability of the remaining provisions of this Article II.

**ARTICLE III - Hospitalization and Medical Insurance**

A. Medical Insurance

1. The Town will pay, on behalf of all Employees, 100% of the cost of either the individual or family (depending on whether the individual is eligible or not) coverage for hospitalization under the Empire Core Plan Plus Enhancements. The plan will also provide that the Town will pay for 100% coverage for individual Employees who hereafter retire from the Town, and the Town will pay 50% of the premiums for the retiree’s family. The Town will assume 100% of the cost of hospitalization for the families of Employees killed in the line of duty until the remarriage of the spouse and the attaining of the age of emancipation of children. If two persons are currently receiving (or are eligible to receive) family health coverage benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual coverage will not be entitled to the health insurance buyout. Should that person choose to decline to receive individual coverage, then that person will be eligible for the buyout of the individual coverage.
2. An Employee may elect to change enrollment in the health insurance plan from family coverage to individual or no coverage, or from individual coverage to no coverage. In this event, the Employee will receive 45% of the savings to the Town, provided the Employee remains in the changed status for a period of 12 consecutive months. Payment will be made annually thereafter during the June or December first following the end of the 12 month period, provided that the Employee remains in the changed status. Nothing in this provision will preclude an Employee from re-enrolling in his/her previous coverage within the 12 month period, provided however, that if the Employee does so in fewer than 12 months, no payment will be made. Effective March 5, 2013, this paragraph will be deleted.

Effective March 5, 2013, an Employee may elect to change enrollment in the health insurance plan from family coverage to individual or no coverage or from individual coverage to no coverage. In this event, the Employee will receive 45% of the savings to the Town, provided that the Employee: (a) has submitted to the Town documentation showing that he/she has health insurance coverage other than through the New York State Health Insurance Plan; and (b) remains in changed status for a period of 12 consecutive months. Payment will be made annually during the June or December first following the end of the 12-month period, provided that the Employee remains in the changed status. Nothing in this provision will preclude an Employee who experiences a qualifying event and who has submitted to the Town adequate documentation of that event from re-enrolling in his/her previous coverage within the 12-month period provided, however, if the Employee re-enrolls in less than 12 months, no payment will be made.

3. The Town will have the option to change health insurance carriers after at least 30 days prior written notice of its intention, provided that; (a) a copy of the proposed replacement coverage’s accompany the notice, and (b) the coverage’s will be, in all respects, comparable to or better than that which currently exists.
B. **Dental Plan:** The Town will pay, on behalf of all Employees, 100% of the cost of either the individual or family plan for dental coverage under the terms provided by the Riverhead Town Dental Plan. If two persons are currently receiving (or are eligible to receive) family dental coverage benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual coverage will not be entitled to the dental insurance buyout. Should that person choose to decline to receive individual coverage, then that person will be eligible for the buyout of the individual coverage.

C. **Optical Plan:** The Town will pay, on behalf of all Employees, 100% of the cost of either the individual or family plan for optical coverage under the Riverhead Town Optical Plan. If two persons are currently receiving (or are eligible to receive) family optical coverage benefits through the Town, only one will be permitted to continue to receive family level coverage. In this event, the person whose coverage changes from family to individual coverage will not be entitled to the optical insurance buyout. Should that person choose to decline to receive individual coverage, then that person will be eligible for the buyout of the individual coverage.

**ARTICLE IV - Holiday**

A. The Town recognizes the following paid holidays for all Employees:

- New Year’s Day
- Martin Luther King’s Birthday
- Lincoln’s Birthday
- Washington’s Birthday
- Easter Sunday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Election Day
- Veteran’s Day
- Thanksgiving Day
- Christmas Day

B. The Employees will receive no time off for these holidays, but will be paid an additional day’s pay for each of the holidays, according to the daily pay rate of each Employee, which compensation
will be paid covering the first six holidays listed during the period June 15th to June 25th, and will be paid the last seven holidays listed on December 7th or the first business day following December 7th. Employees actually working on any of these holidays will be paid an additional one half day’s pay for each day. For purposes of computing holiday pay, a 238 day (1904 hours) work year will be used. Holiday pay will not be earned by those employees on an unpaid leave of absence, or those employees under suspension for more than 30 consecutive calendar days during the pendency of disciplinary charges.

C. All Employees who become members of the SOA bargaining unit on or after December 16, 2008 will receive the full complement of holidays they received immediately prior to joining the unit.

**ARTICLE V - Additional Veterans Holidays**

A. An Employee who is a veteran and works on either Memorial Day or Veterans’ Day will have compensation which will include, in addition to all other entitlements, cash overtime at the rate of time and one half for each hour worked. An Employee who is a veteran and does not work on either Memorial Day or Veterans’ Day will have compensation which will include, in addition to all other entitlements, one day’s pay on a cash basis. For purposes of computing day’s pay, a 238 day (1904 hours) work year will be used.

**ARTICLE VI - Recall and Standby**

A. Any Detective Sergeant who is on call duty and any Lieutenant directed to serve as the Standby Duty Officer, who is not called in will be compensated at the rate of two hours for every eight hours so directed. If any Employee is called in while on call duty, the Employee will forego the call duty pay and be compensated under Section (B).

B. An Employee recalled after the Employee has finished his/her tour of duty and is immediately directed to engage in regular police work will receive a minimum four hours credited as time worked at the applicable overtime rate and will receive a minimum of two hours credited as time worked
at the applicable overtime rate, when required to report to Court or other governmental agency, in direct connection to the Employee's police duties or work. Recalled Employees may be required to work the full amount of the minimum recall for which they are paid.

C. Any fees received by the Employee for appearance before a Court or other governmental agency will be turned over to the Riverhead Police Department. If the Employee uses his/her own automobile in traveling to and from court or government agency offices, any mileage allotment will be retained by the Employee. If a police vehicle is used, the allotment is turned over to the Department.

D. The Town agrees to pay Employees the I.R.S. mileage rate then in effect. The Town agrees to provide a police unit, if a unit is available.

ARTICLE VII - Bereavement Leave

A. Employees will be entitled to four consecutive working days' leave of absence computed either from the day of death or the day following death at the Employee's option, for death of Employee's spouse, child (including adopted children), father, mother, brother, sister, parents, parents-in-law, grandparents, grandparents-in-law, grandchildren, daughter-in-law, brother-in-law, sister-in-law, son-in-law, step-brother, step-sister or stepchild.

ARTICLE VIII - Overtime and Night Differential

A. All Employees who work in excess of their basic work week or tour of duty [40 hours a week, or eight hours a day] will be paid overtime compensation at the rate of one and one half times the Employee's regular entitlement.

B. Night differential compensation for an Employee working three regularly scheduled tours, around the clock or a steady night tour will be paid $4,500 annually. Effective January 1, 2011, employees who are regularly assigned to the experimental steady midnight tour will be paid a differential at the annual rate of $6,850.
The Sergeant in charge of the CRU/COPE will be eligible for the two tour rotating differential.

An Employee working two regularly scheduled tours will be paid $2,700 annually. All Employees, except for Lieutenants, who regularly work a two tour rotating schedule that includes a 3 p.m. to 11 p.m night tour will be paid two tour rotating differential at an annual rate of $4,500. Effective January 1, 2011, the two tour rotating differential for Lieutenants will be $3,800.

An assigned two shift tour of duty will consist of one set of days and one set of either evenings or nights.

A uniformed Employee assigned as a relief Sergeant will be entitled to the same payment as Employees assigned to the experimental steady midnight tour. This night differential will be paid semiannually when receiving holiday pay.

This provision will not be applicable to work performed between 3:00 p.m. and 5:00 p.m. which is part of a regular 8:00 a.m. to 4:00 p.m. or 9:00 a.m. to 5:00 p.m. day tour; or work performed between 6:00 a.m. and 8:00 a.m. which is part of a 6:00 a.m. to 2:00 p.m. or 7:00 a.m. to 3:00 p.m. day tour. This will be applicable to work performed between 3:00 p.m. and 4:00 p.m. which is part of a 3:00 p.m. to 11:00 p.m. night tour and applicable to work performed between 2:00 p.m. and 4:00 p.m. which is part of a 2:00 p.m. to 10:00 p.m. night tour.

C. In calculating overtime under any provision of this Agreement, the longevity part of the base will be frozen at the December 31, 1978 longevity position. For all overtime at or above the applicable FLSA cap, longevity pay will be included in the base as required by law.

D. Subject to Town Board meeting dates, the Town will pay overtime in separate checks on a monthly basis. Effective June 27, 2002, overtime is to be included in a timely submitted biweekly time sheet, and will then be paid in the next biweekly paycheck.

E. For purposes of computing overtime, a 238 day (1904 hours) work year will be used.
F. Relief Sergeant

1. An overtime assignment that arises upon less than 24 hours’ notice will be assigned pursuant to the rotating overtime list. The Employee so assigned, including the relief sergeant, will be paid at his/her overtime rate for all hours worked, as well as recall pay, if applicable, as set forth in Article VI.

2. The relief sergeant will be the first employee offered the opportunity, but will not be required, to work a tour when notice is provided at least 24 hours, but less than 30 calendar days, in advance. When the relief sergeant does work the tour, he/she will be paid at his/her regular hourly rate for all hours worked. If the relief sergeant is unable to work the tour, he/she will be ineligible for overtime for any hours worked which correspond to the hours of the unworked tour.

3. The relief sergeant is required to work a tour when notice is provided 30 calendar days or more in advance, unless he/she has been approved to take a personal day.

ARTICLE IX – Vacation

A. The vacation schedule will be as follows:

Over two years of service, 17 working days.

Over five years of service, 19 working days.

Over 10 years of service, 24 working days.

Over 15 years of service, 27 working days.

Over 21 years of service, 30 working days.

Vacation may carry into the following year a maximum of up to two years of accrual and in no event may the maximum be exceeded. Effective June 27, 2002, in no event will an Employee earn more vacation time as a unit member then he/she did as a member of another Town bargaining unit. All Employees who become members of the SOA bargaining unit on or after December 16, 2008 will receive the full complement of vacation days they received immediately prior to joining the unit.
B. An employee who chooses not to utilize all of his/her annual vacation allotment may sell back the unused days by filing a written notice with the Chief or his/her designee prior to the 15th day of an even numbered month, in which case those days will be paid as wages when receiving overtime pay. Payment will be at straight time based on a 238 day (1904 hours) work year. This election may not exceed three days per month. In no event will this payment be construed as an increase in base pay.

C. Vacation will be credited to an Employee for each calendar year on the anniversary date of employment, except in the year of his/her retirement, when vacation will be prorated and credited at the end of each full month worked. In no event will an Employee be paid for more than 60 vacation days upon retirement.

**ARTICLE X - Personal Days**

A. An Employee will be granted four days’ personal leave per annum for conduct of personal business. Employees may accumulate personal days for three years. Personal business will be defined as those matters relating to a personal, legal, family, religious or household need which cannot be performed or attended to by the officer during times other than the regularly scheduled tour of duty of the officer. Except in cases of emergency and full mobilization of the Department, as determined by the Chief at his/her sole discretion, or if the Department is unable to fill the resulting vacancy through overtime, all personal leave requests that are submitted seven or more days prior to the requested date will be granted. If the request for a personal day is submitted less than seven days before the requested day or if another Employee has already been granted the same day off, the request for personal leave will be granted at the discretion of the Chief or designee. All Employees who become members of the SOA bargaining unit on or after December 16, 2008 will receive the full complement of personal days they received immediately prior to joining the unit.
ARTICLE XI - Longevity Pay

A. Longevity payments will be based on the present year's salary and the percentages will be taken therefrom. Employees will be paid longevity based on the following schedule:

Four percent of the total base pay after 10 years of service.

Six percent of the total base pay after 15 years of service.

Seven percent of the total base pay after 18 years of service.

ARTICLE XII - Excuse from Duties of the SOA’s Representatives

A. During the negotiations by the representatives of the SOA and the employer for renewal, or change, of the Agreement, the negotiators for the SOA will be excused from their duties in the Police Department, provided such period of negotiations are reasonable and necessary. The negotiators for the SOA will not exceed four members, exclusive of counsel and stenographer.

B. Members of the SOA or delegates to any bona fide police organization of which the SOA is an associated member, upon approval of the Chief of Police, will have the right to attend meetings and conventions to which the SOA belongs, in pursuance of their obligations as officers or delegates of the SOA without loss of pay or time and in accordance with requirements of the Audit and Control Bureau of the New York State Comptroller's Office.

ARTICLE XIII - Duty Tours

Employees will continue to work the duty chart currently in effect and as issued by the Chief of Police which will consist of a 238 day (1904 hours) work year.

ARTICLE XIV - Supplemental Death Benefit

A. The Town has adopted Section 360-b of the Retirement and Social Security law providing the supplemental death benefit for Employees who decease while active members of the Police
Department. The Town will make a $10,000 contribution for an Employee who is killed in the line of duty to the Employee’s spouse or his/her estate.

**ARTICLE XV - Severance and Death Benefits**

A. Unused compensatory time, overtime, holiday and vacation pay, sick time (pursuant to the provisions of Article XXI(B), except that the Employee need not have met the 125 day threshold) and terminal pay will be paid over to the Employee, the Employee’s spouse, or the Employee’s estate within 30 days of the Employee’s termination of employment because of retirement, resignation or death, except for dismissal for cause. For purposes of computing a day’s pay, a 238 day (1904 hours) work year will be used.

B. Accumulated personal time will be payable at the time of termination of employment due to death or resignation. There will be no payment at the time of retirement or dismissal for cause.

C. All benefits available pursuant to this Article may be payable in up to five installments over five years at the Employee’s option.

D. 1. Accrued benefits for which payment may be made upon retirement pursuant to this Article will not be made if the retiring Employee provides the Town with less than four months’ notice of his or her intention to retire, unless it is determined upon application of the Employee to the Town Board that unusual and extenuating circumstances made the giving of a full four months’ notice impossible, and provided that an application will be deemed to be approved if it is not acted upon by the Town Board within 30 days of its submission.

2. If a failure to give at least four months’ notice of intent to retire occurs under any of the following circumstances, unusual or extenuating circumstances will be presumed to exist unless the Town Board is presented with competent evidence to the contrary:
a. When an Employee has received an offer of employment which is conditioned on acceptance within four months of when the offer was made;

b. When an Employee or his/her spouse, son, daughter, father or mother becomes injured, sick or disabled; and

c. When an Employee is compelled by law to render military service.

3. The above provisions are set forth for the purpose of defining those circumstances under which a presumption of unusual or extenuating circumstances exists and does not constitute an exclusive list of all facts and circumstances which may constitute unusual or extenuating circumstances within the meaning of this provision.

4. The decision of the Town Board that unusual or extenuating circumstances do not exist will be grievable pursuant to Article XXXIV.

**ARTICLE XVI - One Year Final Average Benefits**

The Town participates in the 20 year, one-half pay final average annual salary, based on the one year option, non-contributory retirement plans pursuant to the New York State Retirement and Social Security Law. The Town has also adopted the New York State Police Retirement System, Section 384-e, the special 20 year plan with additional 1/60th.

**ARTICLE XVII - Non-Conflict Rule**

During the term of this Agreement, neither party will make any rule or regulation in conflict herewith.

**ARTICLE XVIII - Working Conditions**

A. Employees will not be required to wear their hats while in a radio motor patrol car.
B. All other benefits currently being enjoyed by the Employees, whether by statute, law, ordinance, resolution or precedent, will continue to be in effect, provided the benefit does not duplicate a similar benefit herein provided.

C. An Employee will be compensated for the replacement cost of a personal item or items lost or damaged beyond repair or for the cost to repair a damaged personal item or items, provided the loss or damage is caused without the Employee’s negligence and is incurred while the Employee is on duty or actually conducting police business, and further provided, that the item or items are of a nature the Employee would reasonably be expected to have in his/her possession in the course of duty. If an item is replaced, depreciation will be deducted from the cost of the replacement.

The personal items covered by the provisions of this section will be limited to clothing, equipment and accessories actually being worn at the time loss or damage is incurred, or a personal vehicle when parked at or in close proximity to a relieving point, when on duty, and the damage is caused by criminal mischief or vandalism. A motor vehicle will not be deemed to be operated in the performance of police business when such vehicle is being driven by an Employee to and from the Employee’s home on the Employee’s daily work assignment.

The Employee seeking to collect hereunder must prove to the satisfaction of the Chief that the loss was actually incurred. When a claim is submitted, it must be accompanied by a sworn statement that the claim was incurred in the course of the Employee’s duties as a police officer, together with an executed claim voucher indicating the items, damage or loss and their approximate original cost, together with the current value, including depreciation, if any. These provisions will not be applicable for the annual equipment allowance that each Employee receives.

D. No Employee will be compelled to submit to a polygraph test.
E. In the event that the designated department Executive Officer is a unit member, a Town-owned vehicle will be supplied, maintained and fueled by the Town Board and assigned to the Officer for his/her use.

F. All new patrol vehicles will be equipped with air conditioning, power windows and power door locks.

ARTICLE XIX - Re-Negotiation

Upon the mutual agreement between the SOA and the Town, during the term of this Agreement, it may be reopened for further negotiations for additional benefits for either the Town or for the Employees.

ARTICLE XX - Clothing and Equipment

A. The Town will provide all Employees with all uniforms and equipment, which will include, but not be limited to, a handgun.

B. An Employee will receive an equipment allowance toward the cost of required equipment not furnished by the Police Department and the cleaning of uniforms in the sum of $1,100 to be paid on December 7th or the first business day following December 7th. The allowance will be prorated on a quarterly basis for those who do not work a full year in the position. As long as the Employee works in the position for at least one day in any three month period, he/she is entitled to a 1/4 share of the annual allowance.

C. Any Employee assigned to perform duty as a Detective or in plain clothes by order of the Chief for a continuous period of not less than three months will receive an additional allowance in lieu of clothing on a basis of $900 per calendar year. Such clothing allowance will be paid by separate check, not inclusive in the Employee’s salary, on December 7th or the first business day following December 7th.
ARTICLE XXI - Sick Leave

A. Employees will accrue sick leave at a rate of one and one-fourth days per month to a total of 15 days per year. Effective June 27, 2002, in no event will an Employee earn more sick leave as a unit member than he/she did as a member of another Town bargaining unit. Sick leave will not be accrued by those Employees on an unpaid leave of absence, or those Employees under suspension for more than 30 consecutive calendar days during the pendency of disciplinary charges.

B. Employees will be permitted to accrue a maximum of 355 days of unused sick leave and will be entitled to receive payment for 228 days in full upon retirement based on a 238 day work year and any accumulated sick days exceeding 228 days to 355 days will be paid at the rate of the average salary over the past three years based on a 238 day work year (1904 hours). In order to qualify for this payment, the Employee must have accrued at least 125 sick days at retirement. The Employee will be deemed to have satisfied this requirement if, at any time during his/her employment, he/she buys out sick leave pursuant to paragraph (C) below.

Effective December 16, 2008, and only for those Employees opting to buy back time pursuant to the provisions of Article XLI (Lag Payroll), the 125 day sick leave accrual requirement will be reduced by the number of days bought back and those bought back days may be reaccumulated for sick time but not payout purposes.

C. An Employee may elect to reduce the sick time accrued under paragraph (B) by filing a written election with the Town Clerk before September 1st, in the form provided by the Town, for payment to be made in the last week in January of the following year. Buy-out will be in lots of 10 sick days. The Employee will be deemed to have satisfied this requirement if, any time during his/her employment, he/she previously bought out sick time. The rate of pay will be calculated at the time of payment; based on a 238 day work year (1904 hours). An Employee having made this election has agreed
that the maximum sick leave payable to the Employee during his/her employment will be 228 days at full
pay based on a 238 day work year (1904 hours). Any payments made prior to retirement will be deducted
from the gross number of days that may be paid to an Employee at retirement. An Employee who has
bought back days may still be paid for unused accumulated sick leave days as follows upon the
Employee’s retirement: (a) the total number of days bought back will, for calculation purposes only, be
added back into the Employee’s unused accrued sick leave at the time of retirement; (b) of the first 228
total days, to be determined using FIFO (first in, first out) method, those not previously bought back will
be paid at full pay based on a 238 day work year (1904 hours) as set forth in Article XXI(B); and (c) of
any remaining days exceeding 228 up to but not exceeding 355, those not previously bought back will be
paid at the rate of the average salary over the past three years based on a 238 day work year (1904 hours)
as set forth in Article XXI(B). The Employee may reaccumulate bought back days for sick leave usage
purposes only, provided the Employee does not exceed 355 total sick leave days at any one time.”

D. The Town will be permitted to require a medical certificate at the Town’s expense for sick
leave absences of less than three days duration and at the Employee’s expense for absences of three days
duration or longer.

E. Employees absent on sick leave will notify the ranking officer in charge of the tour prior to
two hours before the scheduled tour of duty. The Chief may grant advanced sick leave not to exceed 30
days to an Employee’s account. Notwithstanding the foregoing, the Town, in its sole discretion, may
provide additional sick leave over and above the maximum accumulation of 355 working days. Sick
leave will only be considered absence necessitated by actual illness or physical disability.

F. **Sick Leave Bonus Plan.** A $125.00 dollar bonus will be paid to each Employee for each
calendar quarter when the average pro rata sick time for all Employees equals one day or less per
Employee for such quarter. The average will be based on the sick leave roster which will be posted at Police Headquarters.

If the criteria in the above paragraph are not met, a $100.00 dollar bonus will be paid to each Employee for each calendar quarter the Employee has taken one sick day or less.

G. The Employee may be permitted to use up to five earned sick days due to the serious illness of a spouse where the Employee has exhausted all available personal days.

H. In order to be eligible to receive sick leave on any given day, the Employee must, immediately after contacting the Department pursuant to the Department’s standard procedure for requesting sick leave, also call the FMLA/Sick Line at 727-3200, x777 and advise that the Employee is going to be absent from work that day, as well as whether the Employee is requesting FMLA coverage for the absence because of a serious medical condition.

**ARTICLE XXII - Annual Physical Examination**

All Employees must submit to an annual physical examination by a doctor designated by the Town. Both the Employee and the Town will receive a written report of this examination. Payment for the examination is the responsibility of the Town.

**ARTICLE XXIII - Outside Employment**

An Employee may engage in security work for an outside entity with the prior notification to the Chief and with a limit of 20 hours or less per calendar week under the following circumstances: (1) the work and/or entity and/or entity’s corporate headquarters is located outside the Town; (2) the nature of the employer’s business is compatible with and appropriate to the Employee’s regular police duties (e.g., not an establishment licensed to serve alcohol); and (3) the Employee completes and submits to the Chief an affidavit prepared by the Town certifying the prospective employer’s name, address and telephone number, the type and nature of the work involved, and that the Employee understands and will abide by
the provisions of this paragraph. The Chief will retain the discretion to decide, on a case by case basis, that a particular officer performing this work outside of the Town may carry or use a firearm as part of otherwise approved security work. The Chief's decision will not be arbitrary or capricious.

**ARTICLE XXIV - No Strike Pledge**

The SOA for itself and on behalf of its members agrees that there will be no strike, job action, slowdown, or other interruption of work during the period of the Agreement or at any other time.

**ARTICLE XXV - Bill of Rights**

A. The wide ranging powers and duties given to the Department and its members involve them in all manner of contacts and relationships with the public. Out of these contacts come many questions concerning the actions of members of the force. These questions often require immediate investigation by Superior Officers. In an effort to ensure that these investigations are conducted in a manner which is conducive to good order and discipline, the following guidelines are promulgated:

1. The interrogation of an Employee will be at a reasonable hour, preferably when the Employee is on duty, unless the exigencies of the investigation dictate otherwise. Where practicable, interrogations should be scheduled for the daytime.

2. The interrogations will take place at a location designated by the investigating officer. Usually, it will be at the Police Headquarters or at the place at which the incident allegedly occurred. The Employee may be represented by counsel at all times if he/she makes such a request.

3. The Employee will be informed of the nature of the investigation before any interrogation commences, including the name of the complainant, although the address of any complainant and/or witness need not be disclosed. If it is known that the Employee being interrogated is a witness only, the Employee should be so informed at the initial contact.
4. The questioning will not be unduly long. Reasonable respites will be allowed. Times will also be provided for personal necessities, meals, telephone calls and rest periods as are reasonable necessary.

5. The Employee will not be threatened with dismissal or other disciplinary punishment. No promises of reward will be made as an inducement to answering questions.

6. The complete interrogation of the Employee will be recorded mechanically or by a stenographer if requested by the Employee. When the proceedings are recorded (all recesses called during the questioning will be recorded), the Employee will be entitled to examine, and make a copy (at the Employee’s expense) of the transcript of such stenographic record within a reasonable time after the interrogation, if request therefore be made in writing to the Town.

7. If an Employee is under arrest or is likely to be, that is, if he/she is a suspect or the target of a criminal investigation, he/she will be apprised of his/her constitutional rights, which are that the Employee must, prior to the interrogation, be informed that he/she has the right to remain silent, and that anything he/she says can and will be used against him/her in court; that he/she must be informed that he/she has the right to consult with counsel and to have counsel with him/her during interrogation.

8. In all other cases, there is no obligation, legal or otherwise, on the Department to provide an opportunity for an Employee to consult with counsel or anyone else when questioned by a superior officer about his/her employment or matters relevant to his/her continuing fitness for police service. Nevertheless, in the interest of maintaining the usually high morale of the force, the Town may (but need not) afford an opportunity for an Employee, if he/she so requests, to consult with counsel before being questioned concerning a serious violation of the Rules and Regulations of the Town of Riverhead Police Department, provided the interrogation is not unduly delayed. In no event will the interrogation be postponed for the purpose of consulting with counsel past 10:00 a.m. of the day following the notification
of interrogation. Counsel, if available, may be present during the interrogation of an Employee. Requests to consult with counsel in connection with minor violations will be denied unless sufficient reasons are advanced to support such requests. Unless otherwise expressly provided herein, all counsel fees and other expenses incurred by an Employee will be paid by the Employee and may not be recovered from the Town.

ARTICLE XXVI - Legislative Action Requirement

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN ITS APPROVAL.

ARTICLE XXVII - Binding Effect

This Agreement will be effective for the period from January 1, 2012 through December 31, 2015.

ARTICLE XXVIII - Partial Invalidity

If any provision of this Agreement will be held to be invalid or unenforceable by a court of competent jurisdiction, all other provisions of same will, nevertheless, continue in full force and effect.

ARTICLE XXIX – Vests

Each Employee will be provided a bulletproof vest for use on duty. Any Employee who does not wish to wear the vest while on duty will supply a sworn, written release executed by the Employee and his or her spouse releasing the Town from any and all liability that may result from the Employee’s failure to wear the vest. However, the release will not eliminate any and all coverage for injury or death as may be provided by this contract or laws and statute.
ARTICLE XXX - Deferred Compensation Plan

As per Town Board Resolution #193 as approved March 5, 1985, and to the extent permitted by the U.S. Internal Revenue Code and the New York State Income Tax Laws, Employees may elect to participate in the Town of Riverhead Deferred Compensation Plan.

ARTICLE XXXI - Educational Incentive

An Employee who earns his/her bachelor’s degree while a member of the SOA unit will receive a yearly stipend of 2% of base pay. An Employee who earns a post graduate degree while a member of the SOA unit will receive a yearly stipend of 1% of base pay. No stipend will be granted for degrees earned prior to employment with the Town. All degrees, in order to be recognized, must be in the field of Police Science or Law and must be received from an accredited university or college. Payment of the education stipend will be made along with the December payment of Holiday Pay.

ARTICLE XXXII - Salaries

The salaries for the following Employees for the period January 1, 2012 through December 31, 2015 will be as follows:

<table>
<thead>
<tr>
<th>Salary Schedule</th>
<th>JAN. 1, 2012</th>
<th>JAN. 1, 2013</th>
<th>JAN. 1, 2014</th>
<th>JAN. 1, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sergeant</td>
<td>$127,974.30</td>
<td>$130,533.79</td>
<td>$133,144.46</td>
<td>$135,807.35</td>
</tr>
<tr>
<td>Det. Sergeant</td>
<td>$131,200.56</td>
<td>$133,824.57</td>
<td>$136,501.06</td>
<td>$139,231.08</td>
</tr>
<tr>
<td>Lieutenant</td>
<td>$137,577.60</td>
<td>$140,329.15</td>
<td>$143,135.74</td>
<td>$145,998.45</td>
</tr>
</tbody>
</table>
Effective for Employees who are appointed to the Riverhead Police Department on or after March 5, 2013, a new base salary step will be created for probationary sergeants as defined in Article XXXVI as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Probationary Sergeant (eff. 3/5/13)</td>
<td>$120,916.82</td>
<td>$123,335.15</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$125,801.86</td>
</tr>
</tbody>
</table>

**ARTICLE XXXIII - Drugs and Alcohol**

A. The use of illegal controlled substances or alcohol by Employees adversely affects the Town’s ability to safely deliver services, impairs the efficiency of the work force, endangers the safety of Employees and the public, and undermines public trust. Therefore, the use, sale, distribution, or possession of illegal controlled substances or alcohol by any Employee while on duty is prohibited. In addition, Employees are prohibited from being under the influence of illegal controlled substances or alcohol while on duty. Employees in violation of this policy are subject to disciplinary action, up to and including discharge.

B. Unless otherwise noted, all discipline under this policy will be in accordance with applicable provisions of law.

C. Any Employee who refuses to submit to testing or who refuses to cooperate with the testing procedures may be subject to discipline, including discharge. Attempts to alter or substitute the testing specimen will be deemed a refusal to take the test.

D. The procedures and provision of Article XXV (Bill of Rights) are specifically applicable to this Policy and Procedure.

E. **TESTING**

1. Employees will be subject to urinalysis testing based upon a reasonable suspicion of illegal controlled substance or alcohol use.
a. The order to submit to testing must be justified by a reasonable suspicion that the Employee is or may be under the influence of illegal controlled substances or alcohol while on duty, or is engaging in the use, sale, distribution, or possession of illegal controlled substances or alcohol while on duty.

b. While the “reasonable suspicion” standard does not lend itself to precise definition or mechanical application, vague or unparticularized or unspecified or rudimentary hunches or intuitive feelings do not meet the standard.

c. Reasonable suspicion is the quantum of knowledge sufficient to induce an ordinarily prudent and cautious person to act under the circumstances. Reasonable suspicion must be directed at a specific person and be based on specific and articulable facts and the logical inferences and deductions that can be drawn from those facts.

d. Reasonable suspicion may be based, among other things, on the following:

i. Observable phenomena, such as direct observation of drug or alcohol use or possession and/or physical symptoms of being under the influence of drugs or alcohol; or

ii. A pattern of unusual or abnormal conduct or erratic behavior (e.g. excessive absenteeism, lateness or early leaves); or

iii. Arrest or conviction for a drug-related offense, or the identification of an Employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking; or

iv. Information provided by a reliable and credible source; or

v. Newly discovered evidence that the Employee has tampered with a previous drug or alcohol test.

e. It is intended that where a decision is made to test, the Employee will
be given a direct order to submit to the test and the SOA will be notified of such order. The test will be conducted immediately thereafter. The Employee will be given a brief verbal statement of the basis for reasonable suspicion.

f. Where reasonable suspicion is based on information provided by a confidential informant, defined as an employee or agent of a governmental law enforcement agency or the employee's department, the identity of the source need not be disclosed, except for the name of the governmental law enforcement agency involved, if any. The Town will not be required to identify a confidential informant in any proceeding, nor can evidence supplied by a confidential informant be suppressed because of a refusal to identify the name of the source.

F. TEST PROCEDURES

1. Insofar as practical, the sample collection process will be confidential with due regard for the dignity and privacy of the Employee. There will be no direct observation of giving of urine specimens, unless there is reason to believe that the specimen may be tampered with, in which event direct observations will be made by a person of the same gender as the Employee giving the specimen.

2. Specimens will be collected under the supervision of a monitor designated by the Town. The monitor will mark and seal the specimen to preserve its chain of custody; thereafter, the specimen will be transported to the testing laboratory in a manner which will insure its integrity and chain of custody. The laboratory selected to perform testing will be certified by the National Institute on Drug Abuse (NIDA) of the Department of Health and Human Services.

3. Initial urinalysis testing will be conducted by means of an enzyme multiplied immunoassay test (EMIT). All specimens identified as positive on the initial test will be confirmed using a gas chromatography/mass spectrometry test (GC/MS). The laboratory will report as negative all specimens which are negative on either the initial test or the confirmatory test. Only specimens which test positive on both the initial test and the confirmatory test will be reported as positive. Copies of results
will be sent to the Town and the Employee. All tests conducted pursuant to this procedure will be paid for by the Town.

4. In the event the test procedures reveal the presence of illegal controlled substances or their metabolites or alcohol, the Employee may be subjected to discipline, including discharge. However, in the first instance of such positive drug or alcohol test, any disciplinary charges may be suspended in the Town’s sole discretion if the Employee agrees in writing to complete counseling and treatment on his/her own time for the illegal controlled substance use or alcohol use in a program jointly agreed to by the Town and the SOA. The Employee will agree, as a condition to the suspension of the disciplinary charges, that if he/she fails to attend or complete the program, he/she will be deemed to have resigned from employment. The Employee will also agree, as a condition to the suspension of the disciplinary charges or penalty, that for a period of one year following the completion of treatment, he/she will be subject to periodic random testing for illegal controlled substances and/or alcohol, and that, if he/she completes counseling and treatment but tests positive for illegal controlled substances or alcohol during such one year period, the Town may reinstitute the suspended charges, in addition to preferring new charges. Upon completion of treatment, as outlined above, and the one year period, the original disciplinary charges or penalty will be considered resolved. The record of the charges and their resolution (the charges, the answer and the stipulation) will remain in the Employee’s file unless the parties otherwise agree.

**ARTICLE XXXIV - Random Drug and Alcohol Testing**

A. **Policy:** It is the policy of the Town to detect and deter the abuse of alcohol, the use and possession of illegal drugs and the abuse of prescription drugs in the work place. The parties recognize that the use and possession of such substances constitutes a serious threat to the health and safety of all employees and members of the public. Accordingly, the purpose of this Article is to formalize a Town
policy that prohibits the use, possession, sale, delivery or being under the influence of illegal substances and/or drugs and/or alcohol while on duty. Any disputes regarding the interpretation of this Article, as distinguished from whether the Article has been correctly applied to a particular Employee(s), will be heard by Arbitrator Marlene Gold.

B. Definitions

1. The term “Drug” will include controlled substances as defined in Section 220.00(5) of the Penal Law, State of New York, steroids and marijuana, as defined in Section 220.00(6).

2. The term “Drug Abuse” will include the use of a controlled substance or marijuana, which has not been legally prescribed and/or dispensed, and the improper or excessive use of a legally prescribed drug as determined by the Medical Review Officer designated by the Town.

3. The term “Alcohol Abuse” will be a test result of 0.04 or greater.

4. Random Employee Selection Sheet: A computer-generated list of randomly selected Employees identified by employee I.D. numbers.

5. Computer Control Sheet: A computer generated list of all Employees contained within the random drug/alcohol test data base.

C. Procedure

1. Employees will be subject to random drug and alcohol testing. An Employee may not be required to submit to testing more than one time every two months. The Employee(s) picked will report for testing upon notification if on duty, or on their next working shift.

2. Whenever Employees obtain information or suspect that another Employee may be abusing drugs or alcohol, they will immediately notify the Chief.
3. **Refusal to submit.** The refusal by an Employee to submit to a drug or alcohol test or the adulteration of such test by the Employee pursuant to the provisions of this order may result in immediate suspension and subsequent disciplinary action which may include dismissal from the Town.

4. **Testing Procedures.** The following procedures will apply to all random drug and alcohol tests unless otherwise superseded by this Agreement.
   
   a. Every reasonable effort will be made to maintain Employee confidentiality. In order to insure confidentiality and the integrity of the tests, samples will only be taken at the test location by the authorized medical staff. Sample taking will not be conducted, or otherwise interfered with by the Town or any representative of the Employee. Samples will never be handled or tampered with by the Town or any representative of the Employee. Samples will not be released to anyone, except as authorized in this policy or as required by law, without the individual written consent of the Employee.
   
   b. Each Employee being tested will present his or her shield and identification card at the test location to ensure proper identification.
   
   c. Each Employee being tested may consult with and be accompanied by a SOA representative, who may confer with and advise the Employee before and after the collection process, but will not participate in or interfere with the process in any way. The representative will be given reasonable advance notice of when such testing will occur so that he/she may attend. However, the collection process will not be delayed because the representative is unavailable.
   
   d. Selection of Employees to be selected on a random basis will be performed by a computer program which will randomly select the employee number of those to be tested. The random selection of an Employee will not result in that Employee's number being removed from such selection process. Effective March 5, 2013, Employees will be selected from a pool consisting of all SOA and Riverhead Police Benevolent Association, Inc. unit members.
e. The selection will be made by a laboratory licensed or certified by SAMHSA, HHS. The President of the SOA will be provided with a copy of all Random Selection Sheets sent to the Town by the laboratory that are used to select Employees for testing.

f. The selection process will not be delayed due to the unavailability of the SOA representative.

g. An Employee selected will be notified and ordered to report for testing. Employees will not be given any advance notice of randomly scheduled tests. The SOA President will be permitted to review the list of Employees selected for testing and the computer control sheet after all selected Employees have been tested.

h. Employees will not be recalled to duty for random testing on their regularly scheduled days off or if the Employee is on authorized leave.

i. All random Employee selection sheets and corresponding computer control sheets will be maintained in the office of the Chief.

j. An Employee will be exempt from a drug test if at the time of selection for that particular test the Employee is unavailable due to (i) vacation, (ii) injury, (iii) sickness, (iv) military leave, (v) bereavement leave, (vi) personal leave, (vii) jury duty or (viii) the Employee having notified the Department that he/she has requested admission, but has not yet been admitted to, the Employee Assistance Program.

k. All testing pursuant to this Agreement including, but not limited to, screening or initial testing and confirmatory testing will be performed in compliance with the collection, testing and other requirements promulgated by the U.S. Department of Transportation, Federal Highway Administration.
l. The laboratory administering the test will assure that the appropriate chain of custody is established in order to verify the identity of each sample being tested.

5. Random Drug Testing Procedures

a. There will be no direct observation of the giving of the urine sample unless there is reason to believe that the sample may be tampered with, in which event direct observation by an authorized individual of the medical staff is permitted. This individual will be a person of the same gender as the Employee providing the sample.

b. Testing will be performed by a laboratory licensed or certified by SAMHSA, HHS. Two separate containers supplied by the testing lab will be prepared by each Employee being tested. Each container will have a code number and date of collection affixed. The specimen will be divided into two samples at the time of collection and will be sealed and initialed in the presence of the Employee.

c. Prior to testing, each Employee will list all medications ingested during the preceding 10 days. The Employee may also list any supplements, vitamins, herbs, foods or other products ingested during that same period. The list will be sealed in an envelope and the Employee’s name and date will be written on the outside. If the test results are negative, the envelope will remain sealed and be destroyed in the presence of the SOA President or designee.

d. Initial drug screening will be by the Enzyme Multiple Immunoassay Testing (EMIT). No sample will be further tested upon a negative screening for controlled substances or marijuana. After a negative screening, the sample will be destroyed.

e. Each and every positive EMIT test will be confirmed using Gas Chromatography Mass Spectrometry test (GCMS). Only if confirmed by GCMS will a test result in a
positive report. In order to be defined as a “positive” result, the initial and/or confirmatory test levels must be at or above those set forth in the applicable federal D.O.T. guidelines.

6. **Random Alcohol Testing Procedures**
   
a. The equipment to be utilized must, at all relevant times, be an approved Evidentiary Breath Testing device (EBT) listed on the National Highway Safety Administration’s “Conforming Products List of Evidential Breath Measurement Devices.”

b. Any alcohol testing equipment utilized pursuant to paragraph one (a) above will, at all times, be accuracy tested, cleaned and in all respects tested and maintained in accordance with the quality assurance plan promulgated by the manufacturer of the equipment. Any alcohol testing equipment utilized will immediately be accuracy tested following any positive test result.

c. Any alcohol testing under this Agreement will only be administered by technicians with valid training certifications from the manufacturer or a certified Breath Alcohol Technician (BAT) trainer which will be in accordance with Department of Transportation (DOT) Regulations.

d. No Employee will be ordered to administer, observe or otherwise assist in any way in alcohol testing pursuant to this Agreement.

e. The parties agree that random alcohol testing will only be performed simultaneously with, and upon the same individuals selected for, random drug testing pursuant to the Collective Bargaining Agreement. Nothing contained herein in any way modifies the Town’s right to undertake appropriate disciplinary action and/or to seek termination for a first or subsequent offense with regard to such a positive test result.

f. Initial alcohol screening will be conducted by a breath alcohol technician using an individually-sealed mouthpiece opened and attached to the Evidentiary Breath Testing device.
("EBT"). The Employee will be asked to blow forcefully into the mouthpiece for at least six seconds, or until the EBT indicates that an adequate amount of breath has been obtained. If the Employee states that he/she does not have sufficient air capacity, he/she will be sent immediately for a medical evaluation for verification of the claim. Absence of verification will be considered a refusal. If the result of the screening is an alcohol concentration of greater than 0.04, a confirmation test will be performed between 15 and 20 minutes after the completion of the screening test. Prior to the confirmation test, the EBT will be cleaned and a new mouthpiece will be used. If the first test result is negative, no further testing will be performed. If the confirmation test is negative, the entire test will be deemed negative, and a negative test result will be reported. Samples will be destroyed.

7. Results of Tests

a. Employees who are tested will be notified of the results of all drug/alcohol tests and provided a copy of the corresponding test results, as they become available, at no cost to the Employee as they become available. If the Employee has a drug and alcohol test and intends on introducing the results of such test at his/her disciplinary hearing, the Town will be provided with a copy of the results of the test at no cost and at least 30 days prior to the hearing.

b. Any Employee whose test results in a positive report may, within five business days of receiving notification of such result, request in writing to the Chief that the second sample be made available for retesting at the licensed/certified laboratory from a list of such laboratories supplied by the Town. The Town will be responsible for all costs and expenses in connection with the retesting. If the retesting results in a negative report, the test will be deemed negative and all samples will be destroyed.

8. Confidentiality: The test results and/or other records released are to be used solely by the Town to carry out its obligations under the drug and alcohol testing policy, administering the
contractual procedures, taking appropriate disciplinary action, or where the release is authorized or required by law. For the purpose of administering the policy, they may only be assessed by a Town employee if designated for that purpose, the Chief, and the attorney for the Town, and/or their designated medical experts, or others authorized by the attorney for the Town for the purpose of presenting evidence in disciplinary matters. If release of these records to others is authorized or required by law, the Town will, as soon as practicable but not later than the three business days before the date of actual release, except where otherwise not possible, provide notification to the Employee or, if not available, to the SOA president (or designee) listing the records (to be) released and to whom the records were (to be) released.

9. Positive Test Results

a. Generally

i. All positive test results will be reviewed and verified by a qualified Medical Review Officer or Substance Abuse professional (SAP) ("MRO"), whichever is applicable, designated by the Town, but who will not be a Town employee. The Medical Review Officer will examine alternate medical explanations for a positive test result. Pursuant to this responsibility, he/she may conduct a medical interview with the Employee, who may be accompanied to the interview by an attorney and/or SOA representative, review the Employee's medical history or review any other relevant biomedical factors. If the MRO objects, the attorney may not sit in during the interview. In this case, the Employee may stop the interview at any time for the purpose of consulting the attorney provided that no unreasonable delay results in conducting or continuing the interview. If the Employee provides appropriate documentation and/or the MRO determines that there is a legitimate medical use of the prohibited drug or alcohol, or an alternate medical explanation exists, then the test results are reported as negative. A negative test result is not reviewable by the Town.
ii. The Employee may challenge the basis for, and validity of the testing as part of the applicable due process hearing procedures, if any, rather than through the grievance and arbitration procedure.

b. Positive Alcohol Test

i. Employees, who test positive for the use of alcohol, after being interviewed by the BAT, will be relieved of duty.

   a. If the BAC test result is less than .08, but .04 or greater, then the non-probationary employee will be suspended without pay for five working days.

   b. If the Employee has a BAC of .08 or greater, or has a second positive alcohol test (including a second BAC test result of .08 or greater), then the Employee will be suspended without pay for 30 calendar days and directly referred to and immediately enrolled in an Employee Assistance Program. The Employee will fully and satisfactorily participate in any drug and/or alcohol abuse treatment plan specified by the EAP and will not return to work or be restored to the payroll until he/she has fully and satisfactorily completed the course of treatment. The Employee may utilize his/her accruals during any period of time suspended without pay and/or while enrolled in the EAP. In addition, the Employee will fully execute a consent form to be provided by the Town as a condition of the Town’s willingness not to proceed immediately to a disciplinary hearing against the Employee. If the Employee ever revokes his/her consent, or refuses to fully execute subsequent consent forms deemed necessary by the Town in order for it to satisfactorily confirm the Employee’s full and satisfactory compliance with this Agreement, then the Town will have the right, upon prior written notice to the Employee, to immediately proceed to terminate the Employee’s employment, subject to any applicable due process disciplinary hearing procedures. In this event, the Employee hereby waives any and all rights he/she might otherwise have pursuant to any applicable law, rule, regulation or contract provision.
to assert the applicable statute(s) of limitation, to which the Employee might otherwise be entitled relating
to the termination of his/her employment.

c. If the Employee has a third positive alcohol test, or is a
probationary employee, the Employee will be dismissed from employment, subject to any applicable due
process disciplinary hearing procedures.

ii. The Employee may be restored to the payroll for any period of time
not covered by a suspension without pay and during which he/she has not been approved by the SAP to
return to work, unless the delay is the fault of the Employee.

iii. Any test result with a blood alcohol concentration below .04 will
constitute and be reported as a negative test. This result will not be reflected, in any respect, in any
Personnel or other Departmental file.

iv. The penalties set forth in this Agreement pertain only to positive
alcohol tests and are separate and distinct from penalties which may be imposed as a result of a positive
drug test or other bases for discipline.

v. Any Employee who tests positive for alcohol will be required to
submit to and pass a return to work alcohol test before returning to duty. This test will be administered as
soon as practical upon the Employee’s return to work and will be performed in conformity with the
guidelines established in this Agreement. If the Employee tests positive on a return to work alcohol test,
the positive result will constitute an additional offense under this Agreement.

c. **Positive Drug Test**

i. Employees who test positive for the use of drugs, after being
interviewed by the MRO will be relieved of duty. The Town retains the right to discipline an Employee
who tests positive for drug use up to and including dismissal. In the sole discretion of the Town,
Employees who test positive for the use of drugs who do not have a history of drug abuse may be referred to the EAP.

ii. Discipline For Positive Test Results: Subject to the restrictions of this policy, the Town has the right to discipline Employees who test positive for drug use.

10. Voluntary Treatment: Employees may voluntarily seek treatment at any time before he/she reports to the laboratory for testing. Employees who voluntarily seek treatment for substance abuse under the auspices of the EAP will immediately notify the EAP of their desire to participate in the program. The Employee and the representative of the EAP will meet as soon as possible for purposes of discussion on entrance into the program. Any Employee who has voluntarily sought treatment will not be subject to any disciplinary action for that reason.

D. EMPLOYEE ASSISTANCE PLAN

1. Policy Statement: The Employee Assistance Program is provided within the following framework:

   a. All records pertaining to the Employee Assistance Program will be kept confidential. No information obtained from or about an Employee as a result of his or her participation in the Program will be made available to be used for any purpose unless a "Consent to Release Information" form has been signed by the Employee and acknowledged. The Employee must execute all such forms provided by the Town.

   b. The Town assures that the decision to seek or not seek assistance through the Employee Assistance program will in no way be detrimental to an Employee's job security or advancement opportunities.

   c. The Town's sole interest in personal concerns is strictly limited to the effect of the problems on an Employee's work performance standards.
d. It is the responsibility of the Employee to meet acceptable work performance standards.

e. It is the responsibility of the Employee's supervisors to implement this Policy by advising the Employee of situations in which they have reason to believe that a referral to an EAP may be appropriate to address issues of concern to the Town. This Program will not be used for disciplinary action of any kind against the Employee.

f. Sick leave or salary continuance will be provided in accordance with the existing collective bargaining agreement between the Town and the SOA.

**ARTICLE XXXV - Grievance Procedure**

A. **General Principles**

1. Time limits set forth herein may be extended or diminished only by mutual, written agreement of all parties concerned.

2. Failure at any level of the grievance procedure to communicate a decision to the aggrieved party or his/her representative within the specified time limit will permit the lodging of an appeal at the next level of the procedure within the time that would have been allotted had the decision been communicated by the final day.

3. If a grievance is sustained, the remedy will not exceed or cover more than 30 calendar days before the date on which the grievance was filed.

B. **Grievance Procedure**

1. A "grievance" will be defined as any alleged violation of a specific provision of this Agreement, excluding all matters including disputes concerning line of duty injured status of Employees.
2. All Grievances must be filed as outlined below within 30 calendar days from the date on which the event or condition constituting the grievance occurred, or the date on which the grievant knew or reasonably should have known of the event or condition, whichever is later.

3. There will be four procedural steps as follows:
   
   a. **First Step:** The first procedural step will consist of the Employee’s presentation of the grievance in writing to his/her immediate supervisor. A written decision or determination thereon will be made by the immediate supervisor within 10 calendar days from the time of submission. A copy of the decision will be mailed to the aggrieved Employee, the SOA and the Chief.
   
   b. **Second Step:**
      
      i. If the Employee is not satisfied with the decision at Step 1, he/she may appeal the grievance to the Chief by written notice within 10 calendar days from the date of the decision at Step 1.
      
      ii. Within 10 calendar days after receipt of the appeal, the Chief will render a decision. A copy of the decision will be mailed to the aggrieved Employee and the SOA.
   
   c. **Third Step:**
      
      i. If the Employee or the SOA is not satisfied with the decision at Step 2, either or both may submit the grievance in writing to the Town Board within 10 calendar days of the date of the decision at Step 2.
      
      ii. Within 15 calendar days after receipt of the appeal, or at its next regularly scheduled meeting, whichever is later, the Town Board will consider the grievance in Executive Session. The Board may hold a hearing if it believes it is necessary.
iii. Within seven calendar days after it has completed its consideration of the grievance, the Town Board will render a written decision on the grievance. A copy of the decision will be mailed to the aggrieved Employee, the SOA and the Chief.

d. Fourth Step:

1. Only the SOA or the Town can submit an alleged grievance to binding arbitration.

2. The filing for arbitration must be done by means of a written notice to the Town of intention to proceed to arbitration within 15 full working days from the date that the decision of the Town Board is received by the SOA

3. In the event that the parties are unable to agree upon the designation of an Arbitrator, within 15 calendar days after the notice of intention to proceed to arbitration is received by the Town, an Arbitrator will be selected in rotating alphabetical order from the following panel: Howard Edelman, Arthur Riegel, David Stein and Jack Tillem. Any arbitrator(s) may be removed from the panel by a party upon written notice to the other to be received by that party by not later than December 1 each calendar year. Should this occur, the parties will immediately meet to attempt to agree upon a replacement(s). Failure to agree upon a replacement(s) will not be subject to the grievance or arbitration procedure, PERB or court jurisdiction, or other third party review, except that, if the panel contains fewer than four names for one or more months, then a party will have the unilateral option, on written notice to the other, to replace the panel for grievances not then pending with arbitration through the AAA as specified in the 2005-2007 Agreement.

4. The Arbitrator will be limited to the terms and conditions set forth in this Agreement, and will have no power to add to, delete from or otherwise modify any of its terms.
5. The fees and expenses of the Arbitrator will be borne equally by the Town and the SOA.

6. The election to proceed under this Agreement’s Grievance Procedure to Arbitration will act as a waiver of that party’s right to seek a remedy in any other forum.

7. When the Town has preferred disciplinary charges against any Employee, Town Law § 155 will apply, except that the Employee will have the right to elect to have the charges determined pursuant either to arbitration (in which case the grievance will be filed at Step 4 by the Employee rather than the SOA, and the 15 working days referenced in Paragraph 2 will commence upon the employee’s receipt of the disciplinary charges) or a hearing conducted pursuant to Town Law § 155, but not both.

**ARTICLE XXXVI - Probationary Period**

Employees promoted to sergeant will serve a 12 month probationary period, and Employees promoted to lieutenant will serve a 12 month probationary period.

**ARTICLE XXXVII - Jury Duty**

The first six months in the year will be with full pay. All time taken thereafter will be charged against accrued leave time.

**ARTICLE XXXVIII - GML 207-C**

A. Accrued leave time will be used during the first five days of any absence, unless the Town decides not to controvert the Employee’s claim. If GML 207-c status is awarded to the Employee, or if Workers’ Compensation awards the Town reimbursement for any or all of these five days, then the day(s) will be recredit to the Employee and the Town will provide written confirmation to the Employee of the recrediting within 30 calendar days of notice to the Town of the award of GML 207-c benefits or
Workers' Compensation for the period in issue, unless an appeal is taken from the Workers’ Compensation decision.

B. General Municipal Law Section 207-c Procedure

1. Purpose: This procedure is intended to regulate the application for, and the award and/or termination of, benefits under Section 207-c of the General Municipal Law ("GML 207-c"). It will operate as a waiver of any other procedural rights the SOA and/or its Members may have pursuant to GML 207-c, including the right to utilize any other forum to seek redress regarding the subject matter set forth herein. Any future changes enacted by the State in the provisions of GML 207-c that conflict with an explicit provision of this procedure will supersede the preexisting provision.

2. Application for Benefits

a. An Employee will continue to be required, as per existing Department rules, procedures, orders, etc. ("rules"). to timely notify the Department of any injury, illness or sickness ("injury") allegedly occurring in or as the result of the performance of the Employee’s duties and which necessitates medical or other lawful remedial treatment ("GML 207-c disability"). The notification ("application") will be made on the attached form. The Employee will, along with the application for GML 207-c benefits, complete, sign and submit to the Town any medical release forms requested by the Town.

b. An application will be deemed "untimely" unless it is filed on a timely basis in accordance with the rules and this procedure.

c. Employees will, within two weeks of the occurrence, report to the Chief or designee any sickness or injury to themselves no matter how slight. An Employee’s failure to comply with these reporting obligations will result in the denial of an application for benefits under this procedure unless these requirements cannot be met due to (i) the Employee’s physical or mental incapacity; (ii) an
unforeseeable emergency; or (iii) any other situation which the Chief, in his sole discretion, finds acceptable.

3. **Initial Application for GML 207-c Benefits**

   a. The Chief or designee ("the Chief") will have exclusive authority to initially determine the applicant's eligibility for benefits under GML 207-c. The Chief will have the authority to conduct a full investigation of the facts concerning the application.

   b. After the filing of the application, the Employee will submit to one or more medical examinations as provided by law. This will include, but not be limited to, promptly forwarding to the Town Attorney's Office and Accounting Office and designated physician all reports, data, records and other information related to the Employee's injury. The Employee and health provider will cooperate fully with the designated physician. Failure to cooperate may result in information being excluded as specified in paragraph 4 of this Section.

   c. Any reports submitted by the Employee's or Department's health provider will include the following information: (a) the exact date(s) that the health provider examined the Employee regarding the injury, (b) an explanation of what the examination consisted; (c) diagnosis, (d) causation, and the basis for that belief; (e) treatment modalities; (f) what duties, if any, the Employee cannot perform, and for how long; and (g) whether any or all of the duties the Employee cannot perform could be performed with an accommodations(s) and, if so, what the accommodation(s) is (are). The failure to provide information specified in this paragraph may result in the health provider's report being disregarded by the Town or by the Arbitrator.

   d. The Town will render a written decision on the application for benefits within 60 calendar days after receipt of the application specified above. A copy of the decision will be mailed to the Employee by regular and certified mail, return receipt requested, at the address specified in
the application. A copy will also be delivered to the Accounting and Town Attorney's Offices and a copy will also be delivered to the SOA President. The failure to issue a decision in accordance with these time limits will result in the Employee being placed on 207-c status.

e. While a decision on an application is pending, time off alleged to be attributable to the injury giving rise to the claim for GML 207-c benefits will be charged based on the Department's initial determination.

f. If the decision is that the Employee is eligible for GML 207-c benefits, then the Employee will be so categorized and pursuant thereto any time off taken due to such injury or sickness will be charged to GML 207-c leave, subject to the provision of Section V below. The Employee's GML 207-c benefits will continue so long as the Employee remains eligible.

g. In the event the Employee is not satisfied with the Town's decision and wishes to appeal it, the Employee will file with the Town within 30 days of receipt of the decision a written demand for arbitration on the GML 207-c claim. The parties to the arbitration will be the Town and the Employee. There will be a single arbitrator ("the arbitrator"), who will be selected in accordance with the procedures set forth in Article XXV(B)(3)(d)(3). All costs billed by the arbitrator will be borne equally by the Town and the Employee. All other costs will be paid by the party incurring them; e.g., witnesses, exhibits, transcripts, etc.

h. The Arbitrator will have the authority to decide, whether the Town's denial of the claim of entitlement to GML 207-c benefits was arbitrary and capricious. He/she will have authority to consider and decide all allegations and defenses made with regard to the GML 207-c claim. In the event of a dispute between the parties as to the nature of the proceeding, the Arbitrator will first decide whether the proceeding represents an issue of an applicant's initial entitlement to GML 207-c
benefits or whether the proceeding presents a different issue that should be decided in a different proceeding, as outlined below.

i. The Arbitrator will have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this procedure, the Collective Bargaining Agreement and the rules. The Arbitrator will have no authority to make a decision on any issue not submitted or raised by the parties.

j. The decision and award of the Arbitrator will be final and binding on the parties.

4. Reports

a. An Employee determined to be entitled to disability benefits will advise the Chief in writing of any change in his or her status (e.g., any improvement in physical or mental condition during the disability), but in no event less than once per month.

b. These reports must be filed by the Employee with the Chief, or his designee, in person unless it is medically impracticable for the Employee to do so.

c. These reports will set forth: (a) the status of the injury; (b) the name of any doctor or other medical personnel who examined or treated the Employee during the period being reported upon; (c) the treatment prescribed; (d) the estimated length or the recovery period; (e) whether the Employee is capable of performing any work for the Department despite his/her injury.

5. Alleged Recurrence or Aggravation of Prior Injury

a. In the event that the Employee or the Department alleges that an injury is a recurrence or aggravation of a prior injury, the procedures set forth in Section 3 will be implemented.

b. The Employee will submit to the Town Attorney's Office and Accounting Office any previously unsubmitted health provider(s) report(s) upon which the Employee intends to rely at the hearing immediately upon receiving same from the health provider. Likewise, the Town will
submit to the Employee any previously unsubmitted health provider(s) report(s) upon which the Town intends to rely at the hearing immediately upon receiving same from the health provider. If a relationship is found between the alleged recurrence or aggravation and a prior injury, and the prior injury was designated by the Town as a GML 207-c injury, then the application will be granted, provided the Arbitrator otherwise finds the Employee entitled to GML 207-c benefits as set forth in Section 2. If no relationship is found, then the claim will be treated as an initial injury and the matter will be processed pursuant to Section 3 above.

6. **Termination of Benefits/Return to Duty**

   a. The Town may review cases of Employees receiving GML 207-c benefits for the purpose of determining whether the Employee continues to be entitled to those benefits and in furtherance thereof may take such action as is appropriate under the law.

   b. Any Employee who is receiving benefits under GML 207-c continues to be subject to rules and regulations of the Department.

   c. Upon receipt of a certification from the Town designated physician that an Employee is able to perform some or all of the duties of his or her position, or upon receiving information wherein the Department asserts the Employee is no longer eligible for GML 207-c benefits, the Town may notify the Employee of same. The Town will notify the Employee by serving a written notice of proposed termination, setting forth the effective date thereof and a copy of the physician’s certification, upon the Employee by regular mail and certified mail, return receipt requested and a copy will also be delivered to the SOA President. The effective date may be no sooner than 48 hours after notification. A copy will also be delivered to the Accounting Department and the Town Attorney.

   d. The Employee will submit to the Town Attorney’s Office and Accounting Office any previously unsubmitted health provider(s) report(s) upon which the Employee intends to rely
at the hearing immediately upon receiving same from the health provider. Likewise, the Town will submit to the Employee any previously unsubmitted health provider(s) report(s) upon which the Town intends to rely at the hearing immediately upon receiving same from the health provider. If more than 60 calendar days elapse from the effective date of the Town’s notification to the Employee and the final resolution of the dispute, any time in excess of the 60 day period will be charged against the Employee’s accrued leave time period; except that, if the employee in good faith indicates that he/she is ready, willing and able to go forward on a day or days agreed upon by the arbitrator and counsel for the employee and Town and, in fact, goes forward and presents his/her case within that 60 day period, or a scheduled arbitration hearing is adjourned at the request of the Town or the arbitrator, then the 60 day period will be extended to 90 days. In the event that the Employee’s GML 207-c status is confirmed when the matter is finally resolved, any leave time used as a result of this provision will be reccredited to the Employee. If the Employee disagrees with the Town determination, he/she will commence an appeal pursuant to the procedures outlined in Section 3 (g). While pending, the Employee will remain a GML 207-c status.

7. **Other Provisions**
   a. In the event that any portion of this procedure is invalidated by a decision of a tribunal of competent jurisdiction, then that portion will be of no force and effect, but the remainder of this procedure will continue in full force and effect. In this event, either the SOA or the Town will have the right immediately to reopen negotiations with respect to a substitute for the invalidated portion.
   b. An Employee may have an attorney of his or her choice or a member of the Department as his or her representative at any stage of this procedure, provided there is no unreasonable delay.
   c. Evidence pertaining to an Employee’s application for benefits pursuant to the Workers’ Compensation Law, including whether or not the application was controverted, granted or
denied, will not be given any preclusive effect in any stage of this procedure, but will be admissible as
evidence to be given the weight deemed appropriate by the Arbitrator.

d. This procedure will take effect upon the issuance of this Award and will
apply to all applications pursuant to Section 3 and/or Section 4 made after that date and all determinations
pursuant to Section 5 rendered after that date.

**ARTICLE XXXIX – Leaves of Absence**

A new article will be added confirming the entitlement of Employees to apply for an unpaid leave
of absence of up to one year, and providing that an employee granted a leave by the Town Board will be
notified by the Town prior to the end of the leave, by certified mail to the Employee’s last known address,
of the date of expected return to work following the end of the leave; that if the Employee fails to return
to work within 10 days of the designated day, he/she will be deemed to have abandoned his/her position
with the Town; and that the Employee will then be deemed to have waived any applicable due process
protections otherwise available, including but not limited to those pursuant to Civil Service Law Section
75 or the collective bargaining agreement, and may be terminated by the Town at its discretion, which the
parties hereby agree will be the case.

**ARTICLE XL – Retention of Service Weapon Upon Retirement**

If the Police Commissioner/Sheriff issues a pistol permit, pursuant to Penal Law Section 400, to
an Employee whose last 10 consecutive years of service preceding retirement from the Town were with
the Department in a full-time capacity, the Employee may purchase his/her service weapon upon payment
to the Town of its fair market trade-in value, as determined by the Department. The right to purchase the
weapon is subject to the Police Chief’s individualized discretion.

**ARTICLE XLI – Payroll**

A. Pay checks will be issued every other Thursday.
IN WITNESS WHEREOF, the TOWN OF RIVERHEAD has caused this Agreement to be signed by its Supervisor, by order of the Town Board of the Town of Riverhead, and the RIVERHEAD SUPERIOR OFFICERS ASSOCIATION, has caused this Agreement to be signed by its President, by order of its members.

TOWN OF RIVERHEAD

BY: _______________________________ 6/27/14
Sean Walter
TOWN SUPERVISOR

RIVERHEAD TOWN POLICE SUPERIOR OFFICERS ASSOCIATION, INC.

BY: _______________________________
Edward Frost
SOA President
TOWN OF RIVERHEAD DOT DRUG AND ALCOHOL TESTING POLICY SUPPLEMENT

ESSENTIALS:

Employers must have written policies and procedures addressing DOT drug and alcohol testing provisions. These policy and procedures, along with other related information, must be provided to covered employees and their labor representatives, if applicable.

Implementation Procedures:

Employers may use the DOT Drug and Alcohol Testing Policy Supplement in whole or part, or simply as a reference, in establishing a program. Note the sections of the Policy Supplement that require additional information, such as the section on individuals covered by the Policy Supplement. Note as well that certain provisions of the policy must be modified to comply with specific agency requirements. For example, the abstinence period prior to performing DOT safety sensitive duties is 4 hours for all individuals covered by DOT regulations except flight crew members and air traffic controllers, for which the requirement is 8 hours. Certain agencies also have unique requirements, particularly related to post-accident testing, that must be addressed individually. There is a convenient revision section at the end of the Supplement to note changes made. However, all testing procedures related to drug and alcohol use shall be performed in accordance with this Policy and the required DOT procedures. Note that this Supplement is intended as an adjunct to the employer’s Independent Drug and Alcohol Testing Policies and Procedures.

Whatever alcohol testing policies are used, these must be made available to employees and employees should sign a statement documenting that this information has been made available and reviewed by them.

The Policy should inform employees of the identity of the person (or persons) designated to answer questions about the Town’s drug and alcohol testing policies and procedures. It should also inform the employee that the supervisors who will be determining whether reasonable suspicion exists for both this Policy and any other Town policy related to drug and alcohol testing
will receive at least sixty minutes of training on alcohol misuse and at least sixty minutes of training on drug misuse symptoms.

The Town of Riverhead is establishing additional drug and alcohol testing policies and procedures to comply with Department of Transportation (DOT) requirements. All employees (and applicants for employment) that perform duties covered by DOT regulations are covered by these policies and procedures in addition to any and all Town of Riverhead policies and procedures related to drug and alcohol use.

Individuals are covered by these policies and procedures at any time when there is any possibility that they may be required to perform any duties for the Town of Riverhead which are covered by DOT regulations. This means all provisions of this policy apply, including those requiring no use of alcohol in any form within 4 hours of performing any such duties, depending upon the applicable DOT prohibition based upon the individual’s duties.

The Town of Riverhead will test individuals for drug and alcohol use using DOT procedures in situations and circumstances described below in the “Ten Commandments: Drug and Alcohol Misuse” or as otherwise described in this policy.

All DOT drug and alcohol testing performed on individuals will be in accordance with required DOT procedures. These include the use of special testing forms, trained personnel, and special processes and handling to ensure the integrity and accuracy of the testing process. Information related to testing will be treated as confidential except as required to comply with DOT regulations, safeguard the safety of personnel and the public, or as otherwise legally required.

DOT drug testing includes taking urine samples which are sent to federally certified testing laboratories to test for the presence of amphetamines and methamphetamines, ecstasy, cannabinoids (marijuana), cocaine and crack, opiates (codeine and morphine), and phencyclidine (PCP). Positive test results will be reviewed by a qualified physician - a Medical Review Officer (MRO) - to determine if the individual has a legitimate medical explanation for a positive test result.
DOT alcohol testing includes the taking of breath samples (and, if authorized by future regulation, blood samples), to test for alcohol concentration. Breath testing equipment used is approved by the National Highway Traffic Safety Administration (NHTSA). An initial breath test will be performed; if any alcohol is detected in a concentration of 0.02 or greater, a second test is performed. Individuals with an alcohol concentration of 0.02 or greater are advised not to perform safety duties or operate a vehicle or heavy equipment. Individuals should arrange alternate transportation home from a testing site when alcohol is detected in a concentration of 0.02 or greater.

No individual may perform DOT covered safety sensitive functions if the individual has engaged in conduct prohibited by DOT drug/alcohol rules.

NOTE: an exception may be made for the completion or performance of tasks or duties required by an emergency in which the individual is the only person available or authorized to take an action necessary for public safety. The individual may perform the required action only and then must cease safety sensitive duties immediately.

Individual will undergo alcohol testing as described in this policy. When alcohol tests are performed, if a confirmed alcohol test result indicates an alcohol concentration on 0.02 or greater, in addition to the consequences described in this policy and any other consequences described in other Town of Riverhead policies, personnel at the testing site may:

1. Suggest and/or arrange for alternate transportation for the individual.

2. Contact law enforcement officials if the individual refuses such alternate transport. The testing site will contact a company representative to report test results.

Actions and consequences taken by the Town of Riverhead described in the Policy Supplement are required by DOT. However, the Town of Riverhead reminds individuals that the Town of Riverhead DOT Alcohol and Drug Testing Policy and Procedure Supplement is in addition to any and all other Town of Riverhead policies and procedures related to drug and alcohol use. Individuals are subject to such other Town of Riverhead policies, including testing provisions and penalties for policy violations, in addition to those
described in this policy. For example, certain positive drug test results or other violations of this policy will result in the consequences required by DOT described above, but also may result in disciplinary action, up to and including discharge, under the Town of Riverhead’s authority as described in other Town of Riverhead policies and procedures.

THE TEN COMMANDMENTS: DRUG AND ALCOHOL MISUSE

INDIVIDUALS MUST NOT:

1. Use or be under the influence of alcohol or have the general appearance or conduct or by other substantiating evidence appear to have used alcohol, within 4 hours before going on duty or operating, having physical control of, or being on duty to operate, a commercial motor vehicle or performing other DOT covered safety sensitive duties.

2. Report for duty or remain on duty requiring performance of safety sensitive functions with an alcohol concentration of 0.02 or greater or report for duty within 24 hours (8 hours for individuals other than CDL holder) after a DOT alcohol test result on 0.02 or greater, but less than 0.04; individuals may need to abstain from drinking alcohol for a longer period than 4 hours prior to duty in order to be below 0.02 BAC.

3. Use any controlled substance unless specifically authorized by a physician and then only if the physician tells the individual that use of the controlled substance will not affect the performance of safety sensitive functions.

4. Refuse to submit to a DOT or law enforcement post-accident drug or alcohol test, a DOT random, reasonable suspicion, or a DOT follow-up drug or alcohol test. Refusal includes refusing to be present at the testing location immediately upon request by the Town of Riverhead and refusal to comply with any testing procedures – including, but not limited to, refusal to provide specimen (breath or urine) unless medically incapable, refusal to provide identification or sign forms, refusal to provide necessary information, and refusal to submit to medical or other examinations as considered necessary by the Town of Riverhead, or the Town of Riverhead’s authorized agents. Refusal also consists of instructions or attempting to substitute or otherwise change specimens to be tested.
5. Use or process alcohol (including medications, foods, mouthwashes sprays or any other substances which contain alcohol), even with a doctor’s prescription, for 4 hours before duty, while on duty, or 8 hours after an accident (unless alcohol testing has been performed after the accident).

6. Perform safety sensitive duties if aware of any medical condition or drug or alcohol use that may adversely affect the individual’s ability to perform such duties.

INDIVIDUALS MUST:

7. Inform the Town of Riverhead of drug or alcohol use that may affect the safety of employees or the public.

8. Submit to and pass a DOT drug and alcohol test prior to performing safety sensitive job duties and after a violation of any DOT drug or alcohol rule.

9. Submit to evaluation and follow any recommended treatment plan by a substance abuse professional prior to performing safety sensitive job duties after a violation of any DOT drug or alcohol rule (payment for such evaluation or treatment is not covered by the Town of Riverhead except by any applicable and available health insurance) and submit to random follow-up DOT alcohol and/or drug testing for a minimum of 6 tests (alcohol, drugs, or both) within one year but more frequently and for up to 5 years as recommended by the substance abuse professional after a violation of any DOT drug or alcohol rule (such unannounced testing is in addition to any other applicable random drug or alcohol testing; authorize the release of any and all information related to evaluation, treatment, rehabilitation, testing, counseling, and/or group participation for drug or alcohol use by signing a consent form for such release.

10. Contact the Town of Riverhead’s Personnel Officer, Meg Ferris at ext. 603 or the Drug and Alcohol Testing Program Administrator, Jean Miloski, at ext. 235, immediately following any accident to make sure that required drug and alcohol testing procedures are followed: whether or not the individual is able to contact a Town of Riverhead representative, the individual must make sure he or she is tested with a DOT or law enforcement post-accident alcohol test as soon as possible, but always within 8 hours of the accident, and drug test within 32 hours of the accident, after an accident in which a
fatality occurs, significant damage occurs to property, physical injury, or an accident in which a traffic citation has been issued or in which the individual’s possible contribution to the accident cannot be ruled out and in which a DOT regulation requires testing.

*******************************************************************************

All applicants for employment to positions that required a Commercial Driver’s License (CDL), or current employees of the Town of Riverhead that apply for such jobs must sign the CONSENT AND RELEASE OF DRUG AND ALCOHOL USE AND TESTING INFORMATION form for each and every employer that the person has worked for in the previous two years.

Individuals are reminded of the possible consequence of drug and alcohol use. Both drug and alcohol have proven to affect performance adversely, even in low concentrations. When performing job duties or participating in any other activity in which the performance of the person may affect the safety or health of that person or others, NO AMOUNT OF DRUGS OR ALCOHOL USE IS “SAFE”.

If an individual has a problem with drug or alcohol use, counselors and other professionals are available in the community to assist the individual with resolving such problems. Individuals should contact their personal physicians, or community public health or mental health agencies for assistance or may seek as covered by the Town of Riverhead’s health insurance plans. Individuals may, prior to or while performing any safety sensitive job duties (which are job duties in which the performance of the individual may affect the safety or health of others), decline to perform or continue to perform safety sensitive functions without penalty when the individual believes he or she may be in violation of these rules or believes for any reason that performance of such duties may constitute a risk to the individual or others. In such cases of self-identification, the individual will be required to be seen by his or her personal physician (the Town of Riverhead does not pay for such evaluation) to determine if further action is indicated and may not return to safety sensitive duties until clearance has been obtained for such return for a qualified physician. The Town of Riverhead reserves the right to require the individual to submit to a clinical examination by a physician of the Town of Riverhead’s choosing, including such testing deemed appropriate by the examining physician, prior to return to safety sensitive duties. SUCH SELF IDENTIFICATION CANNOT BE USED BY AN
INDIVIDUAL AFTER THE INDIVIDUAL HAS BEEN INFORMED OF THE INDIVIDUAL’S SELECTION FOR DRUGS OR ALCOHOL TESTING REQUIRED BY THIS POLICY OR OF OTHER POLICY VIOLATION.

Specific Town of Riverhead DOT drug and Alcohol Testing program Administrators have been chosen to be responsible for the Town of Riverhead’s DOT Drug and Alcohol Policy and Program and are authorized to answer questions with respect to the program. Your supervisor can direct you to these administrators to answer any questions regarding the program or to assist you with other issues related to DOT drug and alcohol testing. These administrators will be Meg Ferris and Jean Miloski. Each employee will receive a copy of this policy and sing a certificate of receipt ensuring that each person received their copy.
TOWN OF RIVERHEAD
DRUG & ALCOHOL FREE WORKPLACE

The Drug-Free Work Place Act of 1988 is a federal regulation which mandates a drug and alcohol-free work place. Part of this regulation requires that every employee who works under any federal grant be given a copy of a published statement issued by the Town of Riverhead, certifying that the Town will provide a drug-free workplace.

The Town Board of the Town of Riverhead hereby adopts the following policy applicable to all employees of the Town of Riverhead with regard to the work-related effects of drug use including alcohol, and the unlawful possession of controlled substances on Town premises and off Town premises while conducting Town business:

Employees are expected and are required to report to work on time and in an appropriate mental and physical condition for work. It is the Town’s intent and obligation to provide a drug-free, healthful, safe and secure work environment.

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on Town premises or while conducting Town business off Town premises is absolutely prohibited. Violation of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

The Town of Riverhead recognizes drug dependency as an illness and a major health problem. The Town also recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use our employee assistance program and health insurance plans, as appropriate. Conscientious efforts to seek such help will not jeopardize any employee’s job, and will not be noted in any personnel record. The Town of Riverhead contracts with Family Counseling Services, Inc. for counseling services needed by or required of employees and family members for emotional, mental health, substance abuse or other related problems.
Employees must, as a condition of employment, abide by the terms of this policy and report any conviction under a criminal drug statute for violations occurring on or off Town premises while conducting Town business. A report of a conviction must be made within five (5) days after the conviction to the Town Attorney. (This requirement is mandated by the Drug-Free Work Place Act of 1988).

The Town is required to take one of the following actions, within 30 days of receiving notice of conviction, with respect to any employee who is so convicted:

1. Take appropriate personnel action against such an employee, up to and including termination; or
2. Require such employee to participate satisfactorily in drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

The Town of Riverhead, through implementation of this policy, exemplifies a good faith effort to continue to maintain a drug-free work place.

It is the responsibility of each department head to ensure that every Town of Riverhead employee in his/her department, specifically those who work under any federal grant, be provided with a copy of this certification.
# TABLE OF CONTENTS

## SECTION

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>INTRODUCTION</td>
</tr>
<tr>
<td>2.0</td>
<td>EMPLOYEE INSTRUCTIONS</td>
</tr>
<tr>
<td>3.0</td>
<td>EMPLOYEE TRAINING LEARNING OBJECTIVES</td>
</tr>
<tr>
<td>4.0</td>
<td>YOUR COMPANY'S SUBSTANCE ABUSE POLICY</td>
</tr>
<tr>
<td>5.0</td>
<td>WHAT IS SUBSTANCE ABUSE?</td>
</tr>
<tr>
<td>6.0</td>
<td>WHY SUBSTANCE ABUSE IS A HEALTH AND SAFETY HAZARD</td>
</tr>
<tr>
<td>7.0</td>
<td>WHERE TO GET HELP</td>
</tr>
<tr>
<td>8.0</td>
<td>ALCOHOL TESTING</td>
</tr>
<tr>
<td>9.0</td>
<td>REASONS YOU COULD BE TESTED</td>
</tr>
<tr>
<td>10.0</td>
<td>HOW A RANDOM ALCOHOL TEST WORKS</td>
</tr>
<tr>
<td>11.0</td>
<td>ACTIONS THAT YOUR COMPANY MAY TAKE FOR POSITIVE TESTS</td>
</tr>
<tr>
<td>12.0</td>
<td>SAP and RETURN-TO-DUTY PROCESS</td>
</tr>
<tr>
<td>13.0</td>
<td>HOW TO GET MORE INFORMATION</td>
</tr>
<tr>
<td>14.0</td>
<td>SUMMARY OF ALCOHOL USE AND ABUSE</td>
</tr>
<tr>
<td></td>
<td><strong>Attachment 1</strong> - Donor Information Sheet</td>
</tr>
<tr>
<td>15.0</td>
<td>CATEGORIES OF SAFETY SENSITIVE EMPLOYEES</td>
</tr>
<tr>
<td>16.0</td>
<td>REASONS FOR ALCOHOL TESTING</td>
</tr>
<tr>
<td>17.0</td>
<td>REFUSALS AND THE CONSEQUENCES</td>
</tr>
<tr>
<td>18.0</td>
<td>EMPLOYEE QUIZ</td>
</tr>
<tr>
<td></td>
<td><strong>Attachment 2</strong> – Subpart O - DOT Regulations</td>
</tr>
</tbody>
</table>
DRUG/ALCOHOL FREE WORKPLACE

HAS ESTABLISHED AN ANTI-DRUG AND ALCOHOL PROGRAM TO ENSURE A SAFE AND PRODUCTIVE WORKPLACE AND TO MEET THE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION.

THE COMPANY DESIGNATED EMPLOYER REPRESENTATIVE (DER) IS:
"By signing below, I acknowledge that I have received the attached Anti-Alcohol Employee Training Manual which covers the following information:"

Introduction
Employee instructions
Employee training learning objectives
Company's substance abuse policy
What is substance abuse?
Why substance abuse is a health and safety hazard
Where to get help
Alcohol testing
Reasons you could be tested
How a random alcohol test works
Actions that your company may take for positive tests
Substance Abuse Professionals and the Return-To-Duty Process
How to get more information
Summary of alcohol use and abuse
Donor Information Sheet
Employee Categories
Refusals and Consequences
Quiz

____________________________________________________________NAME (Please Print)

____________________________________________________________SIGNATURE/DATE
1.0 INTRODUCTION

The employees are your company's most important asset: their health, safety and emotional well-being are of paramount importance. Unfortunately, alcohol and drug abuse are a problem in America today. Their use is increasing, threatening our families and sometimes our safety at work. Workers who abuse substances are less productive than their fellow drug/alcohol-free workers, and represent a real risk to co-workers and the public.

In order to deter substance abuse in the workplace, your company has put in place an anti-drug and alcohol program, which includes employee training, drug and alcohol testing. The primary purpose of the program is to educate employees of the risks of substance abuse. It also provides a deterrent to abuse through testing. We all need to learn and be aware of the symptoms associated with substance abuse. They can include financial, marital, legal or career related problems. Most importantly, we need to know how a struggling individual can get help.

Modes of transportation covered by the rules issued by the following DOT agencies are the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), and Pipeline and Hazardous Materials Administration (formerly RSPA).

2.0 EMPLOYEE INSTRUCTIONS

This training is being provided as part of your company's anti-drug/alcohol program.

1. Please complete the acknowledgment form and return it your company's Anti-Drug/Alcohol Manager.

2. Please read the attached Employee Training Manual. Supervisors who will have the authority to make reasonable-cause test determinations must receive both the Employee and the Supervisor Training Manuals.

3. If you have any questions on the training or any aspect of the anti-drug and alcohol program, please do not hesitate to ask your Anti-Drug/Alcohol Manager. All questions will be kept in strict confidence.

3.0 EMPLOYEE TRAINING LEARNING OBJECTIVES

By the end of this training, you should be able to:

Objective 1: Identify the regulations that require your company to implement this program.

Objective 2: State and explain your company's substance abuse policy.

Objective 3: Define "substance abuse"
Objective 4: Describe the health and safety hazards associated with substance abuse.

Objective 5: List the referral and personal assistance resources available to employees.

Objective 6: List and describe the sequence of events of an alcohol test, from random selection through reporting of test results to the employee and your Company.

Objective 7: List the minimum actions that your company will take in the event of a confirmed and verified test result.

Objective 8: Define the role and responsibilities of the Substance Abuse Professional (SAP).

Objective 9: List the four types of alcohol tests, including random testing, that must be conducted.

Objective 10: Identify your company's Anti-Drug/Alcohol Program Manager, who can answer your questions.

4.0 YOUR COMPANY'S SUBSTANCE ABUSE POLICY

Your company has implemented an anti-alcohol program for employees engaged in safety-sensitive activities. Your company has declared itself an alcohol-free workplace, which means that the use, manufacture, possession, sale or purchase of illegal drugs and alcohol on company property is prohibited and will not be tolerated. Furthermore, no employee shall report to work while under the influence of alcohol or any illegal drug. Your company further recognizes that illegal drug and alcohol use is a hazard to fellow employees and the public. Your company acknowledges that substance abuse is a compulsive disease that can be cured. It strongly urges individuals who may have a substance abuse problem to seek and get help for himself. This training identifies such resources.

5.0 WHAT IS SUBSTANCE ABUSE?

Substance abuse is the use of a chemical substance, legal or illegal, to the point of causing physical, mental or emotional harm to a person. For the purpose of the training manual the use of the term "substance abuse" will refer to alcohol. Alcohol is one of the oldest drugs known to man and is considered the most abused drug in the nation. Many legal, as well as illegal, drugs are mood altering, or psychoactive, and it is this effect that users seek. What is use verses abuse? Is drinking a beer with dinner considered substance abuse? No. Is drinking a six-pack every night considered abuse? Absolutely. It's drinking that results in job, social, health or legal problems. Problems can result from a pattern of regular drinking or from just one instance. People who drink regularly build up tolerance - they need more and more alcohol to get the same effect. Some people become addicted to alcohol. If they stop, they will suffer severe withdrawal symptoms. Mentally they need it just to feel "normal".
Alcoholism is a progressive disease. The body becomes increasingly dependent on the use of alcohol. This dependency can lead to uncontrollable drinking habits that interfere with normal life patterns. The progressive stages of alcoholism vary, but the following is a typical pattern:

- Social drinking and occasional use to escape tensions and frustrations
- Increased tolerance and a progressive preoccupation with alcohol - inability to stop at one drink, drinking alone and experiencing feelings of embarrassment and guilt
- Complete change of behavior toward family
- Concealment of drinking habits
- Complete dependency - drinking from morning to night

Symptoms of delirium tremens (DTs), characterized by delirium, muscle tremors, confusion and hallucinations, can occur after several years of addiction.

### 6.0 WHY SUBSTANCE ABUSE IS A HEALTH AND SAFETY HAZARD

Substance abusers, compared to non-users:

- are 1/3 less productive
- use 3 times more medical benefits
- are 4 times more likely to have an accident at work
- are 2 times more likely to take a week's sick time per year
- are 5 times more likely to file a Workman's Compensation claim

Substance abusers inflict a terrible burden on their facilities and on the companies they work for. Each abuser affects about five other people around them, lowering their well-being and productivity as well as the abuser. Substance abusers are the cause of neglect, anger, physical abuse, suspicion, mistrust, guilt, fear and sometimes, financial ruin. 60% of all auto-crash fatalities involve a driver who has been drinking. Alcohol abuse will lead to the following health and safety dangers:

- Neglect of proper diet, resulting in serious vitamin and mineral deficiencies
- Amnesia - "blackouts" lasting from a few minutes up to days
- Increased risk of miscarriage and premature birth and fetal alcohol syndrome (FAS)
- Impotency
- Physical dangers are as follows:
  - Ruptured veins
  - Heart - weakens and decreases the pumping action of the heart - leading cause of hypertension and high blood pressure
  - Stomach - inflammation
  - Pancreas - poisonous reaction
  - Brain cells - permanent damage
7.0 WHERE TO GET HELP

There are many resources available to those who may need help in coping with a personal problem, alcohol/drug-related or not. Below are some national help line numbers that are staffed by trained and sympathetic individuals. They are often people who experienced the same problem themselves, and got through it. Most of them operate 24 hours a day, and you do not need to give your name.

Alcohol and Drug Referral Hotline 1-800-662-4357
Alcoholics’ Anonymous 1-800-923-8722
National Child Abuse Hotline 1-800-422-4453
National AIDS Hotline 1-800-232-4636
National Cocaine Hotline 1-800-347-8998
National Hepatitis Hotline 1-800-223-0179
National Runaway and Suicide Hotline 1-800-621-4000
Sexually Transmitted Diseases Hotline 1-800-227-8922
Drug and Alcohol Abuse Helpline 1-800-827-5596
Narcotics Anonymous 1-800-477-6291
Substance Abuse and Mental Health Services Admin. 1-877-726-4727
M.A.D.D. 1-800-438-6233

Additional resources include:

a. **Employee Assistance Programs** (EAP) are offered by many employers today as an employee benefit. The EAP is free to the employee, and is completely confidential. Look for posters in your workplace. If your company does not have an EAP, perhaps you have a family member who works for a company that does.

b. **Professional Counselors** at mental health centers treat substance abusers, and, the cost is usually covered by your medical benefits program.

c. **Religious clerics** are often trained as counselors. They are willing to listen to and help individuals, whether or not the individual is a member of their congregation.

d. **Community and profession clubs** (Kiwanis, Lions, Rotary, Chambers of Commerce, etc.) sometimes have referral services for community members.

e. **Local clinics and hospitals** have crisis lines that can be called anonymously. They may also have out-patient care.
f. Family and close friends are sometimes the best support around (provided they are not a part of the problem). However, it is important to recognize when professional help is needed. Substance abuse treatment needs a combination of medical care and emotional support.

g. Support group meetings with other people recovering from the same problem are effective in avoiding relapse.

h. Yellow Pages - Look in the Yellow Pages under "Alcoholism" for local help centers.

If you know someone who is suffering from substance abuse, offer them your warm support and guide them to a resource to get help. With professional care and loving support, recovery can be total and complete. Don't give up on someone who seems "too far gone".

8.0 ALCOHOL TESTING

It only took one well-publicized accident (such as the Prince William Sound oil spill or the New York subway crash) where drugs or alcohol were cited to mobilize Congress to pass drug and alcohol testing laws. As part of it’s program, your company is testing for the presence of alcohol. Employees in safety-sensitive positions are required to submit to the alcohol testing program. Current practice for blood alcohol concentration (BAC) measurement is through evidential breath testing (EBT) for both screening and confirmatory testing.

Prohibited Use

Covered employees are prohibited from performing safety sensitive functions when a breath test result indicates an alcohol concentration of .020 or greater, while using alcohol on the job, within 4 hours after using alcohol (8 hours for flight crew members and air traffic controllers), during the 8 hours after an accident when their involvement has not been discounted as a contributing factor or until they are tested, or if they refuse to submit to a required alcohol test. THIS CONCENTRATION OF .02 OR GREATER IS A REQUIREMENT OF THE PUBLIC UTILITIES COMMISSION OF CALIFORNIA.
Consequences of Violation

An employee shall be immediately removed from a safety-sensitive function for violation of the rule. If an employee’s alcohol concentration is .020 or greater, the employee must be removed for 8 hours or until the breath test result is below .020 (Commercial motor vehicle drivers and covered railroad employees must be removed for 24 hours and do not have an option to retest). A substance abuse professional (SAP) evaluation is not required in this situation. If an employee’s alcohol concentration is .020 or above, the employee cannot return to a safety sensitive function until evaluated by a substance abuse professional (SAP), successfully undergone any recommended treatment and pass a return-to-duty test.

9.0 REASONS YOU COULD BE TESTED

a. **Random** - Many of the employees in the employee pool will be tested each year completely at random. Each covered employee's name is always available for being picked, even if a particular employee was just tested. Consequently, an employee could be picked more than once in a given year.

b. **Post-Accident** - All employees who may have contributed to an accident must be alcohol tested. A testable accident is defined as any accident causing significant damage, injury or loss of life. The employee is prohibited from drinking alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.

c. **Reasonable-Cause** - Supervisors can require a reasonable-cause test of an employee if there is reason to believe that the employee is using alcohol. Supervisors are required to receive Supervisor Training before determining reasonable-cause, but they are not expected to become medical diagnosticians. If paraphernalia is evident at work or fellow employees smell alcohol, the Supervisor can require a reasonable-cause test. Care must be taken that reasonable-cause testing is not used to harass individual employees. The Supervisor must fully document the reason for the reasonable-cause test.

d. **Return-to-Duty/Follow-up** - In the event of a positive alcohol test (or refusal to test), and your company chooses to retain the employee, the employee must successfully complete an alcohol rehabilitation program, if recommended by a substance abuse professional (SAP). Upon a negative test result, follow-up testing must begin. There must be at least 6 tests during the 12 months following return-to-duty. Follow-up testing is permitted to extend as long as 60 months.

10.0 HOW A RANDOM ALCOHOL TEST WORKS

The sequence of events in performing an alcohol test has been very carefully defined by the Federal Government. The attitude of the entire program is to protect the employee's confidentiality and check, double-check and re-check all analysis that determine a positive test. Your company's program is being administered by an outside firm called the National Association of Drug-Free Employees, or NADE. Before NADE could manage any
company's anti-drug program, the Federal Government had to review and approve NADE's program, which they did in August 1989 and again in 1994. NADE was issued Federal approval numbers E-EA-00010/11-U. Let's go through a random test:

a. **Employee is Randomly Selected** - Each month, covered employees are randomly selected from the pool of thousands of covered employees. The computer selects by social security number only, and disregards where employees work, their job category, or geographical location. The computer does not care whether a person was already picked, so individuals could be picked more than once. Once an employee is selected, their name is immediately returned to the pool for future possible selection. This provides an on-going deterrence and prevents a "safe period" from developing.

b. **Employee Goes To Collection Site:** The Anti-Drug/Alcohol Manager in each company/location is notified of the names that were selected from their company. The employee then goes to the local clinic that is the company's designated collection site. The Breath Alcohol Technician (BAT) checks the employee's ID, and explains the collection process. The employee blows forcefully for at least 6 seconds. The BAT shows employee the test result on EBT. The following information is recorded/printed in log book or on test form: test number, date of test, name of BAT, location of test, quantified test result, initials of employee taking tests (log book), signatures of BAT and employee (form).

c. **Positive Test** - A confirmation test will be required for results 0.02 or greater and will be conducted as follows: mandatory 15* minute waiting period for confirmation test begins with completion of screening test; BAT shall instruct employee not to eat, drink, or put any object or substance in his/her mouth, and, to the extent possible, not belch during waiting period; room air (air blank) must be tested prior to running confirmation test; EBT used for confirmation test must be able to sequentially number tests and print crucial test information. At the conclusion of the test, the BAT will transmit the results confidentially to a designated representative of the employer. In the case of a positive test result, the transmission must be immediate so the employer can prevent the employee from performing safety-sensitive duties. Breath alcohol levels of 0.02 or above, but less than 0.04, mandates employee removal from safety sensitive duties. Breath alcohol levels of 0.04 or above mandates removal from duty, evaluation, rehabilitation if necessary, and return-to-duty/follow-up testing.

* Transient mouth alcohol (mouthwash, etc.) will dissipate within 15 minutes and will not cause a positive confirmation test.

Please note that if an employee refuses to submit to a required alcohol test, it is considered a positive test.

That is how a random test is conducted. Great care is taken throughout the procedure to safeguard the employee.
11.0 ACTIONS THAT YOUR COMPANY MAY TAKE FOR POSITIVE TESTS

An employee who tests positive or refuses to submit to a required test must be removed from a safety/security related position. If your company chooses to rehire an employee who tests positive (your company is not legally obligated to rehire such individuals), the employee must be successfully rehabilitated before he or she can resume the safety or security related position.

After returning to duty, the employee must be entered into a follow-up program while remaining in the random pool. Employees who have any alcohol concentration (defined as 0.02 or greater) in their breath, when tested just before, during or after performing safety-sensitive functions, must also be removed from performing such duties for 8 hours or until another breath test is administered and the result is less than 0.02. Commercial motor vehicle drivers must be removed from driving for at least 24 hours.

In the case of two verified positive test results (FAA Only), or in the case of alcohol being used while performing a safety sensitive function, the employee involved will be barred from performing the same duties performed before the violation.

12.0 SUBSTANCE ABUSE PROFESSIONALS AND THE RETURN-TO-DUTY PROCESS

Substance Abuse Professional (SAP) - If an employee covered by the alcohol testing regulations has a positive alcohol test or refuses to submit to a test, he/she must be referred for evaluation to a Substance Abuse Professional (SAP). The following professionals are qualified to act in this capacity: licensed physicians, (Doctor of Medicine or Osteopathy) licensed or certified psychologists, licensed or certified social workers, licensed or certified EAP counselors, or be a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC).

Education and Qualification Training - The counselor must be knowledgeable in the following areas:

1. Be knowledgeable about and have clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
2. Be knowledgeable about the SAP function as it related to employer interest in safety-sensitive duties.
3. Be knowledgeable about the DOT agency regulations applicable to the employers for whom you evaluated employees, the DOT SAP guidelines and keep current on any changes to these materials.
4. Qualification Training must provide instruction on:
   a. Background, rationale and coverage of the DOT’s drug and alcohol testing program
   b. 40 CFR Part 40 and DOT agency drug and alcohol testing rules
c. Key DOT alcohol testing requirements, including the testing process, the role of BATs and STTs and problems in alcohol tests.

d. The role of the SAP in the return-to-duty process, including the initial employee evaluation, referrals for evaluation and/or treatment, follow-up evaluation, continuing treatment and follow-up testing plan.

e. Consultation and communication with employers, MROs and treatment providers, reporting and record keeping, and issues that SAPs confront in carrying out their duties under the program.

5. The SAP must satisfactorily complete an examination administered by a nationally recognized professional or training organization. During each three-year period succeeding the examination, the SAP must complete continuing education credits relevant to performing SAP functions.

A SAP evaluation is required when an employee has violated the DOT drug and alcohol regulations. (A verified positive DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test, or any other violation of the prohibition on the use of alcohol.) The employee may not again perform any DOT safety-sensitive duties until and unless you complete the SAP evaluation, referral and education/treatment process.

Your employer must provide each employee who violates a DOT regulation a listing of SAPs readily available. NADE has provided information on QUANTUM/Net for this purpose. They can be contacted at: 215 321-5780. Payment for SAP evaluations and services is left to employers and employees to decide and will be governed by company policy.

The SAP’s function is to protect the public interest in safety. The SAP is directly responsible for the evaluation, referral and treatment process of an employee who has violated DOT drug and alcohol testing regulations. These include:

1. Face to face clinical assessment and evaluation to determine what assistance is needed by employee to resolve problems associated with alcohol and/or drug use.

2. Referring employee to an appropriate education and/or treatment program.

3. Conducting face-to-face follow-up evaluation to determine if the employee has actively participated in the education and/or treatment program and has demonstrated successful compliance with the initial assessment and evaluation recommendations.

4. Providing the DER with a follow up drug and/or alcohol testing plan for the employee.

5. Providing the employee and employer with recommendations for continuing education and treatment.

Appropriate education may include: self-help groups (e.g. Alcoholics Anonymous), community lectures (attendance must be verified), recognized drug and alcohol education courses. Appropriate treatment may include: in-patient hospitalization, partial in-patient treatment, outpatient counseling programs and aftercare.
The SAP must provide, to the DER, written recommendations for assistance. The SAP must assume that a verified positive test result has conclusively established that the employee committed and DOT drug and alcohol regulation violation. The SAP must not take into consideration any of the following:

1. A claim by the employee that the test was unjustified or inaccurate.
2. Statements by the employee that attempt to mitigate the seriousness of the violation (e.g. assertions of use of hemp oil, medical marijuana use, contact positives, poppy seed ingestion, job stress or personal opinions you may have about the justification or rationale for drug and alcohol testing).

Neither the employee nor the employer may seek a second SAP evaluation if they disagree with the first SAP’s recommendations. The SAP who made the initial evaluation may modify his/her evaluation and recommendations based on new or additional information (e.g. from an education or treatment program). The SAP must not refer an employee requiring assistance to his own private practice or any person or organization in which he/she has an interest.

After the SAP has provided the initial evaluation and assistance, he/she must re-evaluate the employee to determine if the employee has successfully carried out the education and/or treatment recommendations as well as a tool to determine if the employee will be able to return to safety-sensitive duty. The SAP will provide a written report directly to the DER highlighting successful compliance with the initial evaluation recommendation or if the employee has not demonstrated successful compliance. If the employee has not successfully complied with the SAP’s recommendation, the employee may not be returned to performance of safety sensitive duties. An employee may need additional treatment, aftercare or support group services even after the employee returns to safety-sensitive work.

Concluding the Return-to-Duty Process – If your employer permits the employee to return to the performance of safety-sensitive function the employee must first take a return-to-duty test. This test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

The SAP will, after he/she has determined that the employee successfully complied with the recommended education and/or treatment, establish a written follow-up testing plan. This plan determines the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol or both. The tests are unannounced; the employee is given no advance notice. The minimum plan will contain six unannounced follow-up tests in the first 12 months of safety-sensitive duty. The SAP may require a greater number than 6 tests during the first twelve month period, as well as for an additional 48 months for a total of sixty months of follow-up testing. The SAP will present a written copy of this plan to the employer. The requirements of the SAP’s follow-up testing plan “follows the employee” to subsequent employers or through breaks in service. The employer must carry out the SAP’s follow-up testing requirements.
13.0 HOW TO GET MORE INFORMATION

Your first resource for more information is within your company. You can either ask your Supervisor or your company's Anti-Drug Manager. The second resource is to call one of the national help lines, especially the SAMHSA Drug Abuse Information and Treatment Referral Line (1-800-726-4727).

14.0 SUMMARY OF ALCOHOL USE AND ABUSE

Alcohol abuse is the most common and the most costly form of drug abuse. Mixing alcohol with other drugs is dangerous. It intensifies the effects of other depressants, making an overdose much more likely. The results of mixing other drugs with alcohol are unpredictable and can be deadly!

Slang Terms: Booze, juice, sauce, brew, vino.

Appearance and Source: Liquid consumed as a beverage - wine, beer and hard liquors.

How Alcohol is Taken: Swallowed.

Effects: In general, a 12 oz. beer (5% alcohol), a 5 oz. glass of wine (12% alcohol), and a 1 1/2 oz. shot of 80 proof liquor (40% alcohol) all contain the same amount of alcohol. Consumption of this quantity will generally yield a .02 or greater alcohol test result within 30 to 60 minutes after consumption. The effects of alcohol consumption are: greatly impaired driving ability; reduced coordination and reflex action; impaired vision and judgment; inability to divide attention; lowers inhibitions; "hangovers" from over-indulgence include: headaches, unsettled digestion, nausea, unclear thinking, aching muscles, dehydration.
ALCOHOL TESTING - DONOR INFORMATION SHEET

The collection of a breath sample from you will be conducted under procedures strictly mandated by the US Department of Transportation (DOT). The DOT regulations provide for your privacy and dignity. Breath alcohol levels of 0.02 or above, but less than 0.04, mandates employee removal from safety sensitive duties. Breath alcohol levels of 0.04 or above mandates removal from duty, evaluation, rehabilitation if necessary, and return-to-duty/follow-up testing. Please take a few minutes to read the following information, which describes your role in the collection process.

- You will be asked to show photo identification to the Breath Alcohol Technician (BAT). If you do not have a photo I.D., an employer representative will be asked to confirm your identity.

- You may ask the Collection Technician to show his/her identification.

- You must sign Step 2 of the Breath Alcohol Form. Not signing is considered a refusal to test.

- You will be given a sealed mouthpiece to open.

- You will be instructed to blow forcefully for at least 6 seconds or until the technician tells you to stop. You will be given 2 tries to provide a sample. If you cannot complete the test, your employer must send you to a physician to confirm a breathing problem. If no problem exists, your test will be treated as a REFUSAL.

- The BAT shows employee the test result on EBT.

- The following information is recorded/printed on the test form:
  - test number, date of test, name of BAT, location of test, quantified test result, signatures of BAT and employee.

- A confirmation test will be required for results 0.02 or greater and will be conducted as follows:
  - mandatory 15-30 minute waiting period for confirmation test begins with completion of screening test;
  - BAT shall instruct employee not to eat, drink, or put any object or substance in his/her mouth, and, to the extent possible, not belch during waiting period; room air (air blank) must be tested prior to running confirmation test; EBT used for confirmation test must be able to sequentially number tests and print crucial test information.
ALCOHOL TESTING - DONOR INFORMATION SHEET
Attachment 1 (cont'd)

☑ At the conclusion of the test, the BAT will transmit the results confidentially to a designated representative of the employer.

☐ You should complete the information on the Breath Alcohol Form. You will be given a copy of the completed form after the Technician has completed his/her certification.
15.0 CATEGORIES OF SAFETY SENSITIVE EMPLOYEES

Employees who perform safety sensitive duties or functions directly or by contract for an employer must be tested pursuant to an FHWA approved alcohol misuse prevention program. The following are the job functions to be tested: Every person and all employers of such persons who operate a commercial motor vehicle in commerce in any State and is subject to: the commercial driver’s license requirements.

PERFORMING A SAFETY SENSITIVE FUNCTION:

An employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform or immediately available to perform such functions.

16.0 REASONS FOR ALCOHOL TESTING

RANDOM

Rate is 10% annually. Employee must proceed immediately to the collection site once notified of his/her selection. If the employee is performing a safety sensitive function the employer shall ensure that the employee ceases to perform the function and proceed to the collection site. A random alcohol test can only be conducted just before or just after or while the employee is performing a safety sensitive function.

REASONABLE SUSPICION

An employer’s determination that reasonable suspicion exists to require the covered employee to undergo an alcohol test shall be based upon specific, contemporaneous, articulate observations concerning the appearance, behavior, speech or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms of alcohol misuse. Observations must be made just before, during or just after the covered employee’s period of workday. The required alcohol test must be administered within 2 hours following the determinations by a trained supervisor. If not conducted, documentation must be made as to why this test was not conducted. If the alcohol test has not been conducted within 8 hours, attempts to administer the test must cease and documentation why it was not completed must be made.

POST-ACCIDENT

Same regulations as drug testing with the following exceptions: Alcohol testing should be administered as soon as possible within the first two hours after the accident. If this is not accomplished then the employer must document the reason. If the test has not been completed within 8 hours then the employer must cease to attempt to test and documentation as to reason must be made. Employee(s) are to refrain from ingesting alcohol until the employer can determine if the employee(s) need to be tested.
FHWA ACCIDENT

Disabling accident means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. An employer shall test each employee who performs a safety sensitive function for the presence of alcohol if that employee’s performance either contributed to an accident or can not be completely discounted as a contributing factor to the accident.

RETURN TO DUTY

An employer shall ensure that before a covered employee returns to duty requiring the performance of a safety sensitive function after engaging in alcohol misuse (after the SAP evaluation and/or rehabilitation), the employee shall undergo a return to duty alcohol test with a result indicating an alcohol concentration of less than .02.

FOLLOW UP

Same as follow up drug testing but the testing procedure must be just before, during or immediately after safety sensitive duties have ceased.

An employer shall retest a covered employee to ensure compliance if the employer chooses to permit the employee to perform safety sensitive functions within 8 hours following the administration of an alcohol test indicating an alcohol concentration of .02 or greater but less than .04.

17.0 WHAT CONSTITUTES A REFUSAL and WHAT ARE THE CONSEQUENCES:

An employee is considered to have refused to take an alcohol test if:

1. Employee failed to appear for any test within a reasonable time, as determined by the employer, consistent with applicable DOT regulations, after being directed to do so by the employer.
2. Employee failed to remain at the testing site until the testing process is complete.
3. Employee failed to provide an adequate amount of saliva or breath for any alcohol test required by regulations.
4. Employee failed to provide a sufficient breath specimen and the physician has determined through a required medical evaluation that there was no adequate medical explanation for the failure.
5. Employee failed to undergo a medical examination or evaluation as directed by the employer as part of the insufficient breath procedures outlined at ¶ 40.265 ©.
6. Employee failed to sign the certification, step 2.
7. Employee failed to cooperate with any part of the testing process.

As an employee, if you refuse to take an alcohol test, you incur the same consequences specified under DOT agency regulations as that of having had a positive test.
18.0 EMPLOYEE ANTI-ALCOHOL TRAINING QUIZ

1. My Anti-Alcohol Manager/(DER) is ____________________________________________.

2. True or False. Alcohol is an illegal substance.

3. True or False. Alcoholism is not a progressive disease.

4. Health and safety hazards of alcohol misuse include which of the following:
   - Malnutrition
   - Cirrhosis of the liver
   - Blackouts
   - High blood pressure
   - Brain cell damage
   - Ruptured veins

5. Under the federal regulations, I am prohibited from consuming alcohol/alcoholic beverages __________ hours before performing my safety sensitive function.

6. Alcohol testing is performed by which of the following methods:
   - Urine
   - Blood
   - Breath
   - Saliva
   - Hair
   - Skin

7. What are the reasons I may need to complete an alcohol test?
   - Pre-employment
   - Random
   - Workman’s Compensation
   - Post-accident
   - Insurance physical
   - Return to duty/follow up
   - Reasonable Cause
   - Union Membership

8. True or False. Results of alcohol tests are reviewed by your Medical Review Officer (MRO) who is a licensed physician with knowledge of substance abuse.

9. True or False. When going for an alcohol test, a photo ID is not necessary.

10. True or False. Mouth alcohol will dissipate within 15 minutes.

11. True or False. After the first alcohol test is positive the donor does not have to take a second test.

12. True or False. An alcohol concentration of .04 or greater will result in your removal from your safety sensitive position and evaluation by a Substance Abuse Professional (SAP).

13. True or False. A 12 ounce beer, 5 ounce glass of wine or 1 ½ ounces of hard liquor will result in an alcohol concentration of .02 or greater.
14. What are two slang terms associated with alcohol?

15. According to your company policy, what will happen to you if the result of the alcohol confirmation test is between .02 and .04.

16. Is refusing to take an alcohol test considered the same as having a positive result?

17. True or False. Are there any over the counter products with alcohol in them and should they be taken prior to you performing your safety sensitive job function?

18. Where and how can you get more information regarding alcohol and its effects?
Subpart O - Substance Abuse Professionals and the Return-to-Duty Process

§40.281  Who is qualified to act as a SAP?

To be permitted to act as a SAP in the DOT drug testing program, you must meet each of the requirements of this section:

(a) Credentials. You must have one of the following credentials:
   (1) You are a licensed physician (Doctor of Medicine or Osteopathy);
   (2) You are a licensed or certified social worker;
   (3) You are a licensed or certified psychologist;
   (4) You are a licensed or certified employee assistance professional; or
   (5) You are a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC).

(b) Basic knowledge. You must be knowledgeable in the following areas:
   (1) You must be knowledgeable about and have clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
   (2) You must be knowledgeable about the SAP function as it relates to employer interests in safety-sensitive duties.
   (3) You must be knowledgeable about this part, the DOT agency regulations applicable to the employers for whom you evaluate employees, and the DOT SAP Guidelines, and you keep current on any changes to these materials. These documents are available from ODAPC (Department of Transportation, 400 7th Street, S.W., Room 10403, Washington DC, 20590 (202-366-3784), or on the ODAPC web site (http://www.dot.gov/ost/dapc).

(c) Qualification training. You must receive qualification training meeting the requirements of this paragraph (c).
   (1) Qualification training must provide instruction on the following subjects:
      (i) Background, rationale, and coverage of the Department’s drug and alcohol testing program;
      (ii) 49 CFR Part 40 and DOT agency drug and alcohol testing rules;
      (iii) Key DOT drug testing requirements, including collections, laboratory testing, MRO review, and problems in drug testing;
      (iv) Key DOT alcohol testing requirements, including the testing process, the role of BATs and STTs, and problems in alcohol tests;
      (v) SAP qualifications and prohibitions;
      (vi) The role of the SAP in the return-to-duty process, including the initial employee evaluation, referrals for education and/or treatment, the follow-up evaluation, continuing treatment recommendations, and the follow-up testing plan;
      (vii) SAP consultation and communication with employers, MROs, and treatment providers;
      (viii) Reporting and recordkeeping requirements;
      (ix) Issues that SAPs confront in carrying out their duties under the program.
   (2) Following your completion of qualification training under paragraph (c)(1) of this section, you must satisfactorily complete an examination administered by a nationally-recognized professional or training organization. The examination must comprehensively cover all the elements of qualification training listed in paragraph (c)(1) of this section.
   (3) The following is the schedule for qualification training you must meet:
      (i) If you became a SAP before August 1, 2001, you must meet the qualification training requirement no later than December 31, 2003.
      (ii) If you become a SAP between August 1, 2001, and December 31, 2003, you must meet the qualification training requirement no later than December 31, 2003.
      (iii) If you become a SAP on or after January 1, 2004, you must meet the qualification training requirement before you begin to perform SAP functions.

(d) Continuing education. During each three-year period from the date on which you satisfactorily complete the examination under paragraph (c)(2) of this section, you must complete continuing education consisting of at least 12 professional development hours (e.g., CEUs) relevant to performing SAP functions.
   (1) This continuing education must include material concerning new technologies, interpretations, recent guidance, rule changes, and other information about developments in SAP practice, pertaining to the DOT program, since the time you met the qualification training requirements of this section.
(2) Your continuing education activities must include documentable assessment tools to assist you in determining whether you have adequately learned the material.

e) Documentation. You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or contemplating using your services.

§40.283 How does a certification organization obtain recognition for its members as SAPs?
(a) If you represent a certification organization that wants DOT to authorize its certified drug and alcohol counselors to be added to §40.281(a)(5), you may submit a written petition to DOT requesting a review of your petition for inclusion.

(b) You must obtain the National Commission for Certifying Agencies (NCCA) accreditation before DOT will act on your petition.

(c) You must also meet the minimum requirements of Appendix E to this part before DOT will act on your petition.

§40.285 When is a SAP evaluation required?
(a) As an employee, when you have violated DOT drug and alcohol regulations, you cannot again perform any DOT safety-sensitive duties for any employer until and unless you complete the SAP evaluation, referral, and education/treatment process set forth in this subpart and in applicable DOT agency regulations. The first step in this process is a SAP evaluation.

(b) For purposes of this subpart, a verified positive DOT drug test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation constitutes a DOT drug and alcohol regulation violation.

§40.287 What information is an employer required to provide concerning SAP services to an employee who has a DOT drug and alcohol regulation violation?
As an employer, you must provide to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulation a listing of SAPs readily available to the employee and acceptable to you, with names, addresses, and telephone numbers. You cannot charge the employee any fee for compiling or providing this list. You may provide this list yourself or through a C/TPA or other service agent.

§40.289 Are employers required to provide SAP and treatment services to employees?
(a) As an employer, you are not required to provide a SAP evaluation or any subsequent recommended education or treatment for an employee who has violated a DOT drug and alcohol regulation.

(b) However, if you offer that employee an opportunity to return to a DOT safety-sensitive duty following a violation, you must, before the employee again performs that duty, ensure that the employee receives an evaluation by a SAP meeting the requirements of §40.281 and that the employee successfully complies with the SAP’s evaluation recommendations.

(c) Payment for SAP evaluations and services is left for employers and employees to decide and may be governed by existing management-labor agreements and health care benefits.

§40.291 What is the role of the SAP in the evaluation, referral, and treatment process of an employee who has violated DOT agency drug and alcohol testing regulations?
(a) As a SAP, you are charged with:
(1) Making a face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use;
(2) Referring the employee to an appropriate education and/or treatment program;
(3) Conducting a face-to-face follow-up evaluation to determine if the employee has actively participated in the education and/or treatment program and has demonstrated successful compliance with the initial assessment and evaluation recommendations;
(4) Providing the DER with a follow-up drug and/or alcohol testing plan for the employee; and
(5) Providing the employee and employer with recommendations for continuing education and/or treatment.

(b) As a SAP, you are not an advocate for the employer or employee. Your function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests, and aftercare.
§40.293 What is the SAP's function in conducting the initial evaluation of an employee?

As a SAP, for every employee who comes to you following a DOT drug and alcohol regulation violation, you must accomplish the following:

(a) Provide a comprehensive face-to-face assessment and clinical evaluation.
(b) Recommend a course of education and/or treatment with which the employee must demonstrate successful compliance prior to returning to DOT safety-sensitive duty.

1) You must make such a recommendation for every individual who has violated a DOT drug and alcohol regulation.

2) You must make a recommendation for education and/or treatment that will, to the greatest extent possible, protect public safety in the event that the employee returns to the performance of safety-sensitive functions.

(c) Appropriate education may include, but is not limited to, self-help groups (e.g., Alcoholics Anonymous) and community lectures, where attendance can be independently verified, and bona fide drug and alcohol education courses.

(d) Appropriate treatment may include, but is not limited to, in-patient hospitalization, partial in-patient treatment, out-patient counseling programs, and aftercare.

(e) You must provide a written report directly to the DER highlighting your specific recommendations for assistance (see §40.311(c)).

(f) For purposes of your role in the evaluation process, you must assume that a verified positive test result has conclusively established that the employee committed a DOT drug and alcohol regulation violation. You must not take into consideration in any way, as a factor in determining what your recommendation will be, any of the following:

1) A claim by the employee that the test was unjustified or inaccurate;

2) Statements by the employee that attempt to mitigate the seriousness of a violation of a DOT drug or alcohol regulation (e.g., related to assertions of use of hemp oil, "medical marijuana" use, “contact positives,” poppy seed ingestion, job stress); or

3) Personal opinions you may have about the justification or rationale for drug and alcohol testing.

(g) In the course of gathering information for purposes of your evaluation in the case of a drug-related violation, you may consult with the MRO. As the MRO, you are required to cooperate with the SAP and provide available information the SAP requests. It is not necessary to obtain the consent of the employee to provide this information.

§40.295 May employees or employers seek a second SAP evaluation if they disagree with the first SAP’s recommendations?

(a) As an employee with a DOT drug and alcohol regulation violation, when you have been evaluated by a SAP, you must not seek a second SAP’s evaluation in order to obtain another recommendation.

(b) As an employer, you must not seek a second SAP’s evaluation if the employee has already been evaluated by a qualified SAP. If the employee, contrary to paragraph (a) of this section, has obtained a second SAP evaluation, as an employer you may not rely on it for any purpose under this part.

§40.297 Does anyone have the authority to change a SAP’s initial evaluation?

(a) Except as provided in paragraph (b) of this section, no one (e.g., an employer, employee, a managed-care provider, any service agent) may change in any way the SAP’s evaluation or recommendations for assistance. For example, a third party is not permitted to make more or less stringent a SAP’s recommendation by changing the SAP’s evaluation or seeking another SAP’s evaluation.

(b) The SAP who made the initial evaluation may modify his or her initial evaluation and recommendations based on new or additional information (e.g., from an education or treatment program).

§40.299 What is the SAP’s role and what are the limits on a SAP’s discretion in referring employees for education and treatment?

(a) As a SAP, upon your determination of the best recommendation for assistance, you will serve as a referral source to assist the employee’s entry into a education and/or treatment program.

(b) To prevent the appearance of a conflict of interest, you must not refer an employee requiring assistance to your private practice or to a person or organization from which you receive payment or to a person or organization in which you have a financial interest. You are precluded from making referrals to entities with which you are financially associated.

(c) There are four exceptions to the prohibitions contained in paragraph (b) of this section. You may refer an employee to any of the following providers of assistance, regardless of your relationship with them:

1) A public agency (e.g., treatment facility) operated by a state, county, or municipality;
(2) The employer or a person or organization under contract to the employer to provide alcohol or drug treatment and/or education services (e.g., the employer's contracted treatment provider);

(3) The sole source of therapeutically appropriate treatment under the employee's health insurance program (e.g., the single substance abuse in-patient treatment program made available by the employee's insurance coverage plan); or

(4) The sole source of therapeutically appropriate treatment reasonably available to the employee (e.g., the only treatment facility or education program reasonably located within the general commuting area).

§40.301 What is the SAP's function in the follow-up evaluation of an employee?

(a) As a SAP, after you have prescribed assistance under §40.293, you must re-evaluate the employee to determine if the employee has successfully carried out your education and/or treatment recommendations.

(1) This is your way to gauge for the employer the employee’s ability to demonstrate successful compliance with the education and/or treatment plan.

(2) Your evaluation may serve as one of the reasons the employer decides to return the employee to safety-sensitive duty.

(b) As the SAP making the follow-up evaluation determination, you must:

(1) Confer with or obtain appropriate documentation from the appropriate education and/or treatment program professionals where the employee was referred; and

(2) Conduct a face-to-face clinical interview with the employee to determine if the employee demonstrates successful compliance with your initial evaluation recommendations.

(c) (1) If the employee has demonstrated successful compliance, you must provide a written report directly to the DER highlighting your clinical determination that the employee has done so with your initial evaluation recommendation (see §40.311(d)).

(2) You may determine that an employee has successfully demonstrated compliance even though the employee has not yet completed the full regimen of education and/or treatment you recommended or needs additional assistance. For example, if the employee has successfully completed the 30-day in-patient program you prescribed, you may make a “successful compliance” determination even though you conclude that the employee has not yet completed the out-patient counseling you recommended or should continue in an aftercare program.

(d)(1) As the SAP, if you believe, as a result of the follow-up evaluation, that the employee has not demonstrated successful compliance with your recommendations, you must provide written notice directly to the DER (see §40.311(e)).

(2) As an employer who receives the SAP’s written notice that the employee has not successfully complied with the SAP’s recommendations, you must not return the employee to the performance of safety-sensitive duties.

(3) As the SAP, you may conduct additional follow-up evaluation(s) if the employer determines that doing so is consistent with the employee’s progress as you have reported it and with the employer’s policy and/or labor-management agreements.

(4) As the employer, following a SAP report that the employee has not demonstrated successful compliance, you may take personnel action consistent with your policy and/or labor-management agreements.

§40.303 What happens if the SAP believes the employee needs additional treatment, aftercare, or support group services even after the employee returns to safety-sensitive duties?

(a) As a SAP, if you believe that ongoing services (in addition to follow-up tests) are needed to assist an employee to maintain sobriety or abstinence from drug use after the employee resumes the performance of safety-sensitive duties, you must provide recommendations for these services in your follow-up evaluation report (see §40.311(d)(10)).

(b) As an employer receiving a recommendation for these services from a SAP, you may, as part of a return-to-duty agreement with the employee, require the employee to participate in the recommended services. You may monitor and document the employee’s participation in the recommended services. You may also make use of SAP and employee assistance program (EAP) services in assisting and monitoring employees’ compliance with SAP recommendations. Nothing in this section permits an employer to fail to carry out its obligations with respect to follow-up testing (see §40.309).

(c) As an employee, you are obligated to comply with the SAP’s recommendations for these services. If you fail or refuse to do so, you may be subject to disciplinary action by your employer.

§40.305 How does the return-to-duty process conclude?

(a) As the employer, if you decide that you want to permit the employee to return to the performance of safety-sensitive functions, you must ensure that the employee takes a return-to-duty test. This test cannot occur until after the
SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

(b) As an employer, you must not return an employee to safety-sensitive duties until the employee meets the conditions of paragraph (a) of this section. However, you are not required to return an employee to safety-sensitive duties because the employee has met these conditions. That is a personnel decision that you have the discretion to make, subject to collective bargaining agreements or other legal requirements.

(c) As a SAP or MRO, you must not make a “fitness for duty” determination as part of this re-evaluation unless required to do so under an applicable DOT agency regulation. It is the employer, rather than you, who must decide whether to put the employee back to work in a safety-sensitive position.

§40.307 What is the SAP's function in prescribing the employee’s follow-up tests?

(a) As a SAP, for each employee who has committed a DOT drug or alcohol regulation violation, and who seeks to resume the performance of safety-sensitive functions, you must establish a written follow-up testing plan. You do not establish this plan until after you determine that the employee has successfully complied with your recommendations for education and/or treatment.

(b) You must present a copy of this plan directly to the DER (see §40.311(d)(9)).

(c) You are the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. For example, if the employee had a positive drug test, but your evaluation or the treatment program professionals determined that the employee had an alcohol problem as well, you should require that the employee have follow-up tests for both drugs and alcohol.

(d) However, you must, at a minimum, direct that the employee be subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee’s return to safety-sensitive functions.

(1) You may require a greater number of follow-up tests during the first 12-month period of safety-sensitive duty (e.g., you may require one test a month during the 12-month period; you may require two tests per month during the first 6-month period and one test per month during the final 6-month period).

(2) You may also require follow-up tests during the 48 months of safety-sensitive duty following this first 12-month period.

(3) You are not to establish the actual dates for the follow-up tests you prescribe. The decision on specific dates to test is the employer’s.

(4) As the employer, you must not impose additional testing requirements (e.g., under company authority) on the employee that go beyond the SAP’s follow-up testing plan.

(e) The requirements of the SAP’s follow-up testing plan “follow the employee” to subsequent employers or through breaks in service.

Example 1 to Paragraph (e): The employee returns to duty with Employer A. Two months afterward, after completing the first two of six follow-up tests required by the SAP’s plan, the employee quits his job with Employer A and begins to work in a similar position for Employer B. The employee remains obligated to complete the four additional tests during the next 10 months of safety-sensitive duty, and Employer B is responsible for ensuring that the employee does so. Employer B learns of this obligation through the inquiry it makes under §40.25.

Example 2 to Paragraph (e): The employee returns to duty with Employer A. Three months later, after the employee completes the first two of six follow-up tests required by the SAP’s plan, Employer A lays the employee off for economic or seasonal employment reasons. Four months later, Employer A recalls the employee. Employer A must ensure that the employee completes the remaining four follow-up tests during the next nine months.

(f) As the SAP, you may modify the determinations you have made concerning follow-up tests. For example, even if you recommended follow-up testing beyond the first 12-months, you can terminate the testing requirement at any time after the first year of testing. You must not, however, modify the requirement that the employee take at least six follow-up tests within the first 12 months after returning to the performance of safety-sensitive functions.

§40.309 What are the employer's responsibilities with respect to the SAP's directions for follow-up tests?

(a) As the employer, you must carry out the SAP’s follow-up testing requirements. You may not allow the employee to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP.

(b) You should schedule follow-up tests on dates of your own choosing, but you must ensure that the tests are unannounced with no discernable pattern as to their timing, and that the employee is given no advance notice.

(c) You cannot substitute any other tests (e.g., those carried out under the random testing program) conducted on the
employee for this follow-up testing requirement.

(d) You cannot count a follow-up test that has been cancelled as a completed test. A cancelled follow-up test must be recollected.

§40.311 What are the requirements concerning SAP reports?

(a) As the SAP conducting the required evaluations, you must send the written reports required by this section in writing directly to the DER and not to a third party or entity for forwarding to the DER (except as provided in §40.355(e)). You may, however, forward the document simultaneously to the DER and to a C/TPA.

(b) As an employer, you must ensure that you receive SAP written reports directly from the SAP performing the evaluation and that no third party or entity changed the SAP’s report in any way.

(c) The SAP’s written report, following an initial evaluation that determines what level of assistance is needed to address the employee’s drug and/or alcohol problems, must be on the SAP’s own letterhead (and not the letterhead of another service agent) signed and dated by the SAP, and must contain the following delineated items:

1. Employee’s name and SSN;
2. Employer’s name and address;
3. Reason for the assessment (specific violation of DOT regulations and violation date);
4. Date(s) of the assessment;
5. SAP’s education and/or treatment recommendation; and
6. SAP’s telephone number.

(d) The SAP’s written report concerning a follow-up evaluation that determines the employee has demonstrated successful compliance must be on the SAP’s own letterhead (and not the letterhead of another service agent), signed by the SAP and dated, and must contain the following items:

1. Employee’s name and SSN;
2. Employer’s name and address;
3. Reason for the initial assessment (specific violation of DOT regulations and violation date);
4. Date(s) of the initial assessment and synopsis of the treatment plan;
5. Name of practice(s) or service(s) providing the recommended education and/or treatment;
6. Inclusive dates of employee’s program participation;
7. Clinical characterization of employee’s program participation;
8. SAP’s clinical determination as to whether the employee has demonstrated successful compliance;
9. Follow-up testing plan;
10. Employee’s continuing care needs with specific treatment, aftercare, and/or support group services recommendations; and
11. SAP’s telephone number.

(e) The SAP’s written report concerning a follow-up evaluation that determines the employee has not demonstrated successful compliance must be on the SAP’s own letterhead (and not the letterhead of another service agent), signed by the SAP and dated, and must contain the following items:

1. Employee’s name and SSN;
2. Employer’s name and address;
3. Reason for the initial assessment (specific DOT violation and date);
4. Date(s) of initial assessment and synopsis of treatment plan;
5. Name of practice(s) or service(s) providing the recommended education and/or treatment;
6. Inclusive dates of employee’s program participation;
7. Clinical characterization of employee’s program participation;
8. Date(s) of the first follow-up evaluation;
9. Date(s) of any further follow-up evaluation the SAP has scheduled;
10. SAP’s clinical reasons for determining that the employee has not demonstrated successful compliance; and
11. SAP’s telephone number.

(f) As a SAP, you must also provide these written reports directly to the employee if the employee has no current employer and to the gaining DOT regulated employer in the event the employee obtains another transportation industry safety-sensitive position.

(g) As a SAP, you are to maintain copies of your reports to employers for 5 years, and your employee clinical records in accordance with Federal, state, and local laws regarding record maintenance, confidentiality, and release of information. You must make these records available, on request, to DOT agency representatives (e.g., inspectors
(h) As an employer, you must maintain your reports from SAPs for 5 years from the date you received them.

§40.313 Where is other information on SAP functions and the return-to-duty process found in this regulation?

You can find other information on the role and functions of SAPs in the following sections of this part:

§40.3 – definition.
§40.347 - service agent assistance with SAP-required follow-up testing.
§40.355 - transmission of SAP reports.
§40.329(c) – making SAP reports available to employees on request.
Appendix E to Part 40 - SAP Equivalency Requirements for Certification Organizations.
EMPLOYEE ANTI-DRUG

TRAINING MANUAL
express written permission.
<table>
<thead>
<tr>
<th>SECTION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0 INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>2.0 EMPLOYEE INSTRUCTIONS</td>
<td>1</td>
</tr>
<tr>
<td>3.0 EMPLOYEE TRAINING LEARNING OBJECTIVES</td>
<td>1</td>
</tr>
<tr>
<td>4.0 YOUR COMPANY'S SUBSTANCE ABUSE POLICY</td>
<td>2</td>
</tr>
<tr>
<td>5.0 WHAT IS SUBSTANCE ABUSE?</td>
<td>2</td>
</tr>
<tr>
<td>6.0 WHY SUBSTANCE ABUSE IS A HEALTH AND SAFETY HAZARD</td>
<td>3</td>
</tr>
<tr>
<td>7.0 WHERE TO GET HELP</td>
<td>3</td>
</tr>
<tr>
<td>8.0 DRUG TYPES TESTED</td>
<td>5</td>
</tr>
<tr>
<td>9.0 REASONS YOU COULD BE TESTED</td>
<td>5</td>
</tr>
<tr>
<td>10.0 HOW A RANDOM DRUG TEST WORKS</td>
<td>6</td>
</tr>
<tr>
<td>11.0 ACTIONS THAT YOUR COMPANY MAY TAKE FOR POSITIVE TESTS</td>
<td>8</td>
</tr>
<tr>
<td>12.0 HOW TO GET MORE INFORMATION</td>
<td>9</td>
</tr>
<tr>
<td>13.0 SUMMARY OF FIVE DRUG TYPES</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Attachment 1 - Donor Information Sheet</td>
</tr>
<tr>
<td>14.0 CATEGORIES OF SAFETY SENSITIVE EMPLOYEES</td>
<td>16</td>
</tr>
<tr>
<td>15.0 REASONS FOR DRUG TESTS</td>
<td>16</td>
</tr>
<tr>
<td>16.0 REQUIREMENT TO SUBMIT</td>
<td>18</td>
</tr>
<tr>
<td>17.0 EMPLOYEE QUIZ</td>
<td>20</td>
</tr>
</tbody>
</table>
DRUG/ALCOHOL FREE WORKPLACE

HAS ESTABLISHED AN ANTI-DRUG AND ALCOHOL PROGRAM TO ENSURE A SAFE AND PRODUCTIVE WORKPLACE AND TO MEET THE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION.

THE COMPANY DESIGNATED EMPLOYER REPRESENTATIVE (DER) WHO CAN ANSWER EMPLOYEE QUESTIONS ABOUT THE ANTI-DRUG AND ANTI-ALCOHOL PROGRAMS AND INFORMATIONAL MATERIALS IS:
"By signing below, I acknowledge that I have received the attached Employee Training Manual which covers the following information:"

Introduction
Employee instructions
Employee training learning objectives
Your company's substance abuse policy
What is substance abuse?
Why substance abuse is a health and safety hazard
Where to get help
Drug types tested
Five reasons you could be tested
How a typical random drug test works
Actions that your company may take for positive tests
How to get more information
Summary of five drug types
Donor Information Sheet
Requirement to Submit
Refusals and Consequences
Quiz

_________________________________________________________NAME (Please Print)

_________________________________________________________SIGNATURE/DATE
1.0 INTRODUCTION

The employees are your company's most important asset, and their health, safety and emotional well-being are of paramount importance. Unfortunately, alcohol and drug abuse are a problem in America today. Their use is increasing, threatening our families and sometimes our safety at work. Workers who abuse substances are less productive than their fellow drug-free workers, and represent a real risk to co-workers and the public.

In order to deter substance abuse in the workplace, your company has put in place an anti-drug and alcohol program which includes employee training and drug testing. The primary purpose of the program is to educate employees of the risks of substance abuse. It also provides a deterrent to abuse through testing. We all need to learn and be aware of the symptoms associated with substance abuse. They can include financial, marital, legal or career related problems. Most importantly, we need to know how a struggling individual can get help.

2.0 EMPLOYEE INSTRUCTIONS

This training is being provided as part of your company's anti-drug program.

1. Please complete the acknowledgment form and return it your company's Anti-Drug Manager (ADM) also known as the Designated Employer Representative (DER).

2. Please read the attached Employee Training Manual. Supervisors who will have the authority to make reasonable-cause test must receive both the Employee and the Supervisor Training Manuals.

3. If you have any questions on the training or any aspect of the anti-drug and alcohol program, please do not hesitate to ask your Anti-Drug Manager. All questions will be kept in strict confidence.

3.0 EMPLOYEE TRAINING LEARNING OBJECTIVES

By the end of this training, you should be able to:

Objective 1: Identify the regulations that require your company to implement this program.

Objective 2: State and explain your company's substance abuse policy.

Objective 3: Define "substance abuse" and name at least four substances that are abused in America.

Objective 4: Describe the health and safety hazards associated with substance abuse.
Objective 5: List the referral and personal assistance resources available to employees.

Objective 6: Identify the seven drug types that are tested.

Objective 7: List and describe the sequence of events of a drug test, from random selection through reporting of test results to the employee and your Company.

Objective 8: List the minimum actions that your company will take in the event of a confirmed and verified test result.

Objective 9: Define the role and responsibilities of the Medical Review Officer (MRO).

Objective 10: List the types of drug tests, including random testing, that must be conducted.

Objective 11: Identify your company's Anti-Drug Program Manager, who can answer your questions.

4.0 YOUR COMPANY'S SUBSTANCE ABUSE POLICY

Your company has implemented an anti-drug program for employees engaged in safety and security sensitive activities. Your company has declared itself a drug-free workplace, which means that the use, manufacture, possession, sale or purchase of illegal drugs on company property is prohibited and will not be tolerated. Furthermore, no employee shall report to work while under the influence of alcohol or any illegal drug. Your company further recognizes that illegal drug use is a hazard to fellow employees and the public. Your company acknowledges that substance abuse is a compulsive disease that can be cured. It strongly urges individuals who may have a substance abuse problem to seek and get help for themselves. This training identifies such resources.

5.0 WHAT IS SUBSTANCE ABUSE?

A drug is defined as any substance that produces physical, mental, emotional, or behavioral changes in the user. Drug abuse is the use of a drug for other than medicinal purposes. Many legal, as well as illegal, drugs are mood-altering, or psychoactive, and it is this effect that users seek. The substances that are abused the most are nicotine (tobacco smoking to chewing), alcohol, marijuana, cocaine, and legal over-the-counter or prescription drugs. This training will primarily be concerned with alcohol, marijuana and cocaine since they are by far the most abused illegal substance. What is use verses abuse? Taking an allergesic under the guidance of a doctor is substance use, not abuse. Mainlining heroin clearly is
abuse. But, is drinking a beer with dinner considered substance abuse? No. Is drinking a six-pack every night considered abuse? Absolutely. The difference, therefore, between use and abuse is not always clear. Common sense is the best guide.

Some substance, like PCP (angel dust), Ecstasy, have no legal uses. Any use of PCP is illegal. On the other hand, there are legal uses of amphetamines. Drug dependence is a psychological desire to feel the effects of the drug, to feel good. Drug addiction is the chemical need of the body to continue receiving the drug. Most drugs have elements of both. For example, cigarette smokers will psychologically crave a cigarette. They will also experience an actual chemical withdrawal when they quit. Substance abusers may know logically that what they are doing is destructive, yet they want and need that next "hit" or "fix" and it is a difficult cycle to break. Substance abuse is a compulsive disease and abusers have great difficulty changing their habits.

6.0 WHY SUBSTANCE ABUSE IS A HEALTH AND SAFETY HAZARD

Substance abusers, compared to non-users:

- are 1/3 less productive
- use 3 times more medical benefits
- are 4 times more likely to have an accident at work
- are 2 times more likely to take a week's sick time per year
- are 5 times more likely to file a Workman's Compensation claim

Cocaine has killed over 100,000 people just since 1986! Substance abusers inflict a terrible burden on their families and on the companies they work for. Each abuser affects about five other people around them, lowering their well-being and productivity as well as the abuser. Substance abusers are the cause of neglect, anger, physical abuse, suspicion, mistrust, guilt, fear and sometimes financial ruin. Drug use is most prevalent among the young adults. Studies have shown that at least 1 in 4 working males from 18 to 34 years old use marijuana at least once per month. As much as 1 in 11 use cocaine. The government estimated that $100 billion dollars is wasted in the US because of drugs each year. One more depressing statistic; on average, 15 in every 100 8th graders across the country smoke marijuana, and 5 use crack cocaine - average only 13 years old!

7.0 WHERE TO GET HELP

There are many resources available to those who may need help in coping with a personal problem, drug-related or not. Below are some national helpline numbers that are staffed by trained and sympathetic individuals. They are often people who experienced the same problem themselves, and got through it. Most of them operate 24 hours a day, and you do not need to give your name.

Alcohol and Drug Referral Hotline 1-800-662-4357
Alcoholics’ Anonymous 1-800-923-8722
National Child Abuse Hotline 1-800-422-4453
National AIDS Hotline 1-800-232-4636
National Cocaine Hotline 1-800-347-8998
National Hepatitis Hotline 1-800-223-0179
National Runaway and Suicide Hotline 1-800-621-4000
Sexually Transmitted Diseases Hotline 1-800-227-8922
Drug and Alcohol Abuse Helpline 1-800-827-5596
Narcotics Anonymous 1-800-477-6291
Substance Abuse and Mental Health Services Admin. 1-877-726-4727

Additional resources include:

a. **Employee Assistance Programs** (EAP) are offered by many employers today as an employee benefit. The EAP is free to the employee, and is completely confidential. Look for posters in your workplace. If your company does not have an EAP, perhaps you have a family member who works for a company that does.

b. **Professional Counselors** at mental health centers treat drug abusers, the cost may be covered by your medical benefits program.

c. **Religious clerics** are often trained as counselors. They are willing to listen to and help individuals, whether or not the individual is a member of their congregation.

d. **Community and Professional Clubs** (Kiwanis, Lions, Rotary, Chambers of Commerce, etc.) sometimes have referral services for community members.

e. **Local clinics and hospitals** have crisis lines that can be called anonymously. They may also have out-patient care.

f. **Family and close friends** are sometimes the best support around (provided they are not a part of the problem). However, it is important to recognize when professional help is needed. Substance abuse treatment needs a combination of medical care and emotional support.

g. **Support group** meetings with other people recovering from the same problem are effective in avoiding relapse.

h. **Yellow Pages** - Look in the Yellow Pages under "Drug Abuse" for local help centers.

If you know someone who is suffering from substance abuse, offer them your warm support and guide them to a resource to get help. With professional care and loving support, recovery can be total and complete. Don't give up on someone who seems "too far gone".
8.0 DRUG TYPES BEING TESTED

It is recognized that your industry does not have a history of drug abuse. However, it only took one well-publicized accident (such as the Prince William Sound oil spill or the New York subway crash) where drugs or alcohol were cited to mobilize Congress to pass drug testing laws. All employees in safety-sensitive positions are required to submit to the drug testing program. As part of the anti-drug program, your company is testing for several drug types. They include, but may not be limited to, marijuana, cocaine, opiates, heroin, Ecstasy, amphetamine and phencyclidine (PCP). The list of drug types tested may be expanded in the future if a particular drug is increasingly abused. Additional information is located at the end of this Employee Training Manual.

9.0 FIVE REASONS YOU COULD BE TESTED

a. Pre-employment - Pre-employment testing of an individual is required prior to the hiring of an individual who performs a safety sensitive function. If an employee is transferred into a safety-sensitive position, the individual is required to submit to pre-employment test. An employer must have proof that the employee had a negative test result prior to the employee performing a covered function.

b. Random - Many of the employees in the employee pool will be tested each year completely at random. Each covered employee's name is always available for being selected, even if a particular employee was just tested. Consequently, an employee could be selected more than once in a given year.

c. Post-Accident - All employees who may have contributed to an accident must be drug tested. A testable accident is defined as any accident causing significant damage, injury or loss of life.

d. Reasonable-Cause - Supervisors can require a reasonable-cause test of an employee if there is reason to believe that the employee is using drugs. Supervisors are required to receive Supervisor Training before determining reasonable-cause, but they are not expected to become medical diagnosticians. If drug paraphernalia is evident at work or he/she smells pot smoke, the Supervisor can require a reasonable-cause test. Care must be taken that reasonable-cause testing is not used to harass individual employees. The Supervisor must fully document the reason for the reasonable-cause test.

e. Return-to-Duty/Follow-up - In the event of a positive drug test (or a refusal to test), and your company chooses to retain the employee, the employee must successfully complete a drug rehabilitation program. Furthermore, that employee is then subject to a return-to-duty test. The result must be negative for the employee to return-to-duty. The employee will also be subject to a minimum of six tests within the first 12 months of returning to duty. All collections will be observed.
10.0 HOW A RANDOM DRUG TEST WORKS

The program relies on urine analysis to detect the presence and quality of an illicit substance. The sequence of events in performing a drug test has been very carefully defined by the Federal Government. The attitude of the entire program is to protect the employees' confidentiality and check, double-check and re-check all analysis that determine a positive test. When in doubt, a negative (no drugs) test result is reported. Your company's program is being administered by an outside firm called the National Association of Drug-Free Employees, or NADE. Before NADE could manage any company's anti-drug program, the Federal Government had to review and approve NADE's program, which they did in August 1989, as well as periodically rereviewed since 1989. NADE was issued Federal approval numbers E-EA-00010/11-U. Let's go through a random test:

a. **Employee is Randomly Selected** - Covered employees are randomly selected from the pool of thousands of covered employees from hundreds of companies. The computer selects by social security number only, and disregards where employees work, their job category, or geographical location. The computer does not care whether a person was already picked, so individuals could be picked more than once. Once an employee is selected, their name is immediately returned to the pool for future possible selection. This provides an on-going deterrence and prevents a "safe period" from developing.

b. **Employee Goes To Collection Site**: The Anti-Drug Manager in each company is notified of the names that were selected from their company. The employee then goes to the local clinic that is the company's designated collection site. The Collection Technician checks the employee's ID, and explains the collection process. The Employee chooses a specimen bottle and the Chain-of-Custody (COC) Form. This form is vital to the process; it ensures that someone always has custody of the bottle, and is fully responsible for it. The top copy of the form will accompany the sealed specimen bottle to the lab doing the analysis. The employee will be asked to empty his/her pockets and display the contents to the collector. The employee voids into the bottle. The specimen collection itself is done in a controlled manner, but is not directly observed. The employee is given full privacy. After the bottle is filled, the specimen is poured into two separate containers and which are sealed in front of the employee. The employee then initials the tamper-evident bottle seals. The bottle is not opened again until it arrives at the laboratory.
c. **Specimen Bottle and Chain-of-Custody Form are Shipped to Lab:** The bottle and COC form are then sent to the lab, where the COC form is scrutinized carefully for correct completion, and matched against the bottle seal. All information must be on the form for the analysis to proceed.

d. **Analysis by the Lab:** The lab draws off a small portion of the urine specimen (called an aliquot) and performs what is called an EIA screen test. This screen test "screens out" the negative (drug-free) tests. Most specimens, over 97% of them, will test negative and be discarded after the EIA screen test. If the EIA is negative (no drugs), the employer will be informed that the test is negative. Over-the-counter drugs like Advil and Sudafed do not interfere with the test or give a false result. The specimens are tested for adulterants and validity.

e. **Positive Test** - If, on the other hand, the EIA screen test is presumptive positive, it means that the screen test discovered the presence of one of the seven drugs (marijuana, cocaine or crack, Ecstasy, amphetamines, PCP and opiates-heroin). The specimen is then retested using an entirely different test method called gas chromatography (GC). The specimen is then tested a third time using yet another test methodology called mass spectrometry (MS). Each of these tests (EIA, GC, and MS) is a separate and distinct test method. Together, they are a very accurate way to identify unknown substances. They are definitive in determining the presence and quantity of an illegal drug in the specimen. If the specimen again tests positive on the GC and MS tests, the specimen becomes a "confirmed positive test". However, the employer is not yet notified that a positive test has been identified. A doctor gets involved first.

f. **Medical Review Officer** - The lab reports all drug tests in a confidential manner to the designated Medical Review Officer, or MRO. The MRO is a fully-certified physician with knowledge of illicit drugs and how they are metabolized by the human body. For confirmed positive drug tests, the MRO contacts the employee by telephone and has a confidential discussion with him or her. The employer is not notified of the positive test result until the employee has the opportunity to talk with the MRO. Depending upon which drug was discovered, the MRO asked questions to find out whether the drug was legally prescribed. If the employee can explain a positive test through a copy of a prescription, the name of a doctor, or a copy of the label of the bottle then the MRO will mark "Negative" on the drug test result. This is despite the fact that the laboratory did correctly determine the test as positive. The employer will never know that the employee was under suspicion of a positive test, unless the employee chooses to inform the employer.

On the other hand, if the employee cannot explain or justify to the MRO why the test was positive, the MRO will inform the employee that the employer will be notified of the positive test result. During medical review with the employee, the MRO will inform the employee of the right to split analysis. After MRO
verification of a positive result, the employee will be informed by the MRO that he or she will have 72 hours to provide a request for a split analysis at a 2nd DHHS certified lab. After MRO verification of a positive result, the MRO will notify the employer of the positive result. Upon notification from the MRO of a positive result, the employer must remove that employee from their safety-sensitive duties. If the split analysis fails to reconfirm the drug, the result of the test is cancelled. The employer has the right to pass the cost of the requested split analysis to the employee. Split sampling may be requested on all tests, not only randoms.

g. Substance Abuse Professional If an employee covered by the drug testing regulations has a positive drug test (or refuses to test), he/she must be referred for evaluation to a substance abuse professional (SAP). The following professionals are qualified to act in this capacity: licensed physicians, licensed or certified psychologists, licensed or certified social workers, licensed or certified EAP's, counselors certified by the NAADAC. The initial, critical decision for which the SAP is responsible is whether the tested employee needs assistance in resolving problems with drug abuse. If the SAP decides the employee needs help, the SAP must recommend treatment and determine a schedule for follow-up testing. If the SAP decides the employee does not need assistance with a drug problem, the employee is required to have a negative drug test before his or her return to safety-sensitive duties.

That is how a random test is conducted. Great care is taken throughout the procedure to safeguard the employee. The labs are continually monitored by both the Federal government and by NADE. Blind, spiked samples are submitted every day to the lab that have known quantities of drugs in them. If the lab makes just one mistake in attributing a positive test incorrectly (commonly called a false positive), the lab can be shut down immediately, and all previous tests from the lab within a certain time period can be invalidated. Great care is taken to not falsely attribute a positive test. If any doubt occurs as to the validity of the test, either the lab or the MRO will invalidate the test, and the test will be reported to the employer as negative.

11.0 ACTIONS THAT YOUR COMPANY MAY TAKE FOR POSITIVE TESTS/REFUSALS

An employee who tests positive or who refuses to submit to a test must be removed from a safety/security related position. If your company chooses to rehire an employee who tests positive (your company is not legally obligated to rehire such individuals), the employee must be referred to a substance abuse professional, be successfully rehabilitated (if required) before he or she can resume the safety or security related position. After returning to duty, the employee must be follow-up tested at a schedule determined by the SAP for a period of up to five years, all the while remaining in the random pool.
12.0 HOW TO GET MORE INFORMATION

Your first resource for more information is within your company. You can either ask your Supervisor of your company's Anti-Drug Manager. The second resource is to call one of the national helplines, especially the SAMHSA Drug Abuse Information and Treatment Referral Line (1-800-726-4727).

13.0 SUMMARY OF FIVE DRUG TYPES

Here is some information on the seven drug types that are being tested for in your company's program.

MARIJUANA

Marijuana is the most abused controlled substance after nicotine and alcohol. Marijuana and cocaine are by far the most used drugs.

Associated Terms: Grass, bone, pot, reefer, or dope. A joint is a rolled marijuana cigarette. Hash is the concentrated form of marijuana made from the tops of the plant. Being high on marijuana is commonly referred to as being stoned.

Appearance: Green, like ground oregano or thyme. Personal "stashes" are usually kept in plastic ziploc sandwich bags.

How Drug is Made: Marijuana is a hemp plant that has been dried, crushed and the seeds removed before being smoked, much like tobacco. The plant was historically used to make hemp role. It can grow in a wide variety of climates, from tropical to temperate zones. Much of the marijuana used is "homegrown" in the US.

How Drug is Taken: Usually smoked in a pot pipe, bong (water pipe) or as a joint (marijuana cigarette). Has a distinctive odor when burning, like burning grass or rope.

Effects: Marijuana produces a temporary mellow euphoria or high for up to 5 hours, followed by drowsiness. Marijuana impairs concentration, learning and perceptual/motor skills. One study conducted on experienced pilots in a flight simulator demonstrated impairment for 24 hours after the immediate high had passed (American Journal of Psychiatry, 1985).

General: Marijuana's active ingredient, THC, is prescribed in rare instance to manage the symptoms of glaucoma (painful eyeball pressure) and to suppress the nausea associated with cancer treatment (chemo-and radiation therapy). Chronic users develop tolerance to THC requiring more frequent use and higher doses to achieve the same high. It is estimated that 66 million Americans, fully one quarter of the country's entire population have tried marijuana at least once in their lives. It is the most common drug abuse after
alcohol and nicotine.

**COCAINE AND CRACK**

Crack cocaine is the fastest-growing substance of abuse. Cocaine and marijuana are by far the most used drugs.

Associated Terms: Coke, crack, rock, snow, toot, nose candy or Lady. Lines are finely crushed cocaine powder laid out in parallel line on a flat surface. Snorting is the inhalation of the crushed cocaine powder through a tube into a nostril. Freebasing is the separation of the active ingredient from the salt base, and inhaling the resultant highly volatile fumes. Crack (or rock) is a purified form of cocaine for smoking much like freebasing.

Appearance: Cocaine - Finely-ground white powder typically stored in a small glass vials or folded glossy paper (such as used in expensive magazines). Crack - Small white chips having the appearance of slivers of soap or broken porcelain. Sold in small glass vials.

How Drug is Made: Cocaine is make from the coca bushes' leaves, most often grown in the Andean countries of South America. The leaves are processed with a variety of chemicals, including acid, and then dried to yield a white powder. Before being sold on the street, cocaine is often diluted, or cut, with other white crystalline powders, such as sugar or crushed aspirin tablets. Crack is made by further processing cocaine.

How Drug is Taken: Cocaine - Cocaine is usually finely ground with a razor blade on a flat surface such as glass, and snorted deep into a nostril through a tube. The cocaine powder is deposited on the membrane tissues of the nose and sinus, and absorbed into the blood stream. It only takes a few minutes to travel to the brain and create the high. Crack-Cocaine rocks are placed in a pipe (usually glass) and heated with a butane flame. The resultant fumes are inhaled. The onset of the high only takes seconds and is very intense. The crash, or post-high depression, is also more pronounced than for snorting.

Effects: Cocaine and crack temporarily produce an elevated mood for 10 to 20 minutes. The user then emotionally crashed and becomes severely depressed. The user then craves another dose to bring him or her up again. Chronic use will cause damage to the nasal passages, malnutrition, heart disease, and ultimately death. The user's personality will change drastically as casual use becomes chemical addiction. Crack users report that addiction occurs after only one or two episodes.
General: Cocaine is used as a topical pain killer for nasal surgery. Cocaine and crack are highly addictive psychologically and chemically. Research has discovered that an addicted animal will prefer cocaine to food, even if starved. It inhibits the release of a natural chemical in the brain (dopamine) that produces the normal sensation of joy or pleasure. The coke user relies on the cocaine to "feel good", since his or her brain is incapable of producing dopamine, and will stay depressed until cocaine is taken again.

The vicious cycle is very difficult to break, explaining the low success rate of rehabilitation (more than 70% of treated users relapse). For addicts, only inpatient care under continuous psychological and medical supervision for at least 60 days, couples with strong, loving support has shown to be effective. The recovered user must then never re-enter the social setting that led to the experimentation with the drug. 10% of the entire population has tried cocaine, with close to 6 million users in any given month. Crack use if growing faster than any other drug.

OPIATES

While marijuana, cocaine and PCP are specific drugs, opiates are a class of drugs. The most common opiates are raw opium, heroin, morphine and codeine.

Associated Terms: Heroin - Smack, horse, H, hard stuff, scag or scat. Mainlining is the injection of heroin (or other drugs) directly into a vein. Needle tracks are the puncture marks left by the needle usually found on the forearms or legs. Opium - Black Tar. Morphine and Codeine - Morpho, M coties and dope.

Appearance: Heroin - white to dark brown powder to tar. Opium - dark drown chunks of powder. Morphine and Codeine "legal looking" (prescription) pills, tablets and injection liquids.

How Drug is Taken: Opium is the raw product from which the other opiates are made. Opium and its derivatives are made from a specific poppy plant. The poppy grower makes vertical razor cuts in the seed pod beneath the flower while it is still in the ground. A dark fluid oozes out, and this is collected and chemically processed into raw opium. Heroin is then made reacting the natural morphine from the raw opium with acetic acid. The poppy plant is indigenous to the Middle Eastern countries of the Mediterranean, through it has been transplanted to other sub-tropical areas of the world. The active ingredients of opium have been manufactured synthetically and this is the opiate form found in many legally-prescribed narcotic opiates.

How Drug is Taken: Heroin - heroin is taken by turning it into a liquid through heating it in a spoon over a candle, drawing it up into a syringe, and injecting it into a vein ("mainlining"). Opium - Raw opium is mostly smoked, as was done in the "opium dens" of the East. It can also be eaten.

Morphine and Codeine - Morphine and codeine are usually taken as abused prescribed drugs. They can be taken orally or injected. Abuse of morphine and codeine are limited by
drug accessibility, making use more prevalent in the health care professions, versus other sectors of society.

**Effects:** All of the opiates bring on a short-lived state of euphoria, which passes and leaves the user craving another dose. Within minutes of injection, heroin changes to morphine, and later codeine in the body. Therefore, a heroin user will test positive for both codeine and morphine.

**General:** Public awareness of heroin as a hard drug is widespread, though it is not generally recognized that most heroin users are ordinary people who have become addicted. Heroin is primarily an urban drug, though its use has spread to smaller mid-continent communities. Since heroin is primarily injected intravenously, there is an additional risk of infection, especially by the HIV virus (AIDS), when hypodermic needles are shared. Abuse of legally prescribed opiate drugs is growing fastest in the health care professions. A typical dose of heroin costs $10, with an addicted user requiring close to $100 per day.

**AMPHETAMINE AND METHAMPHETAMINE, ECSTASY**

Amphetamine and methamphetamine are manufactured legally and are prescribed for medical conditions. They are also heavily controlled substances. Ecstasy is an illegal substance and one that is chemically similar to the stimulant methamphetamine and the hallucinogen mescaline.

**Associated Terms:** Speed, co-pilot, uppers, dexies, black beauties, pep pills, bennies, meth, and wake-up are among the terms used to describe amphetamine and methamphetamine. The trade names include benzedrine, biphetamines, dexedrine, synatan, appetrol, methedrine and desoxyn. Ecstasy is known as XTC, X, Adam, hug, beans, love drug.

**Appearance:** These drugs are in the form of pills, tablets or caplets of varying colors, shapes and sizes.

**How Drug is Made:** These drugs are most often legally made by pharmaceutical companies and controlled by the FDA. They are completely synthetic drugs developed for legally prescribed uses, such as appetite suppression, narcolepsy (involuntary sleep), and as antidepressants. MDMA (Ecstasy) has no legal use. It has stimulant and psychoactive properties.

**How Drug is Taken:** They are nearly always taken orally.

**Effects:** Abused primarily to increase alertness, these drugs cause symptoms often related to excessive caffeine intake, such as restlessness and insomnia. Amphetamines cause increase heart rate, which can result in heart attacks. Amphetamines and methamphetamine are addicting. Ecstasy causes mental stimulation, emotional warmth, enhanced sensory perception and increased physical energy.
General: These drugs are typically used to ward off fatigue over long periods of time. They are not normally used as "recreational drugs"; they are not as psychoactive or mood altering as marijuana, cocaine or opiates. Exception to this is Ecstasy which is psychoactive as well as a stimulant. However, strong diet pills are abused by millions of people, who develop mild addictions to them, diminishing job productivity.

**PHENCYCLIDINE (PCP)**

There is no legal use of PCP. All PCP is manufactured in illegal home labs. PCP abuse is a fraction of that of cocaine or marijuana, but its violent effects are devastating. Washington DC, Los Angeles, and New Orleans have the highest incidences of PCP use.

**Associated Terms:** Angel dust, crystal, rocket fuel, dummy dust, krystal joints, KJs, DOA, zombies, super cool.

**Appearance:** Pure PCP is a white crystalline powder that dissolves easily in water. It is also sold as tablets of many colors.

**How Drug is Made:** These drugs are completely illegal. There is no legal use of PCP. Originally designed for veterinary purposes (the "horse pill"), PCP is no longer manufactured legally.

**How Drug is Taken:** PCP is added to mint leaves, parsley or marijuana and smoked as krystal joints or KJs. Liquid PCP can be injected, and is also applied with an eye dropper directly to the eyes. It can even be absorbed directly through the skin.

**Effects:** The user experiences a false sense of unlimited power and strength, while losing basic motor skills and becoming confused and disoriented. An expert varsity swimmer under the effects of PCP jumped into a pool, could not recall how to swim and drowned. Hallucinations are common, as is schizophrenic and unexplainable violent behavior.

**General:** PCP has been shown to be addictive, though it is not a common drug of abuse. It appeared on the West Coast in the Seventies and is used primarily with marijuana. Users sprinkle angel dust or spray PCP solutions on a joint and smoke it, with violent results.
DONOR INFORMATION SHEET

The collection of your urine specimen will be conducted under procedures strictly mandated by the US Department of Transportation (DOT). The DOT regulations provide for your privacy and dignity, unless there is reason to believe that the specimen was altered or substituted. Your specimen will be tested for marijuana, cocaine, phencyclidine (PCP), opiates, heroin, Ecstasy and amphetamines. Please take a few minutes to read the following information, which describes your role in the collection process.

• You will be asked to show photo identification to the Collector Technician. If you do not have a photo ID, an employer representative will have to confirm your identity.

• You may ask the Collection Technician to show his/her identification.

• Remove any unnecessary outer garments, e.g. coat, jacket. All personal belongings (e.g. purse, briefcase) must remain with the outer garment outside of the collection room. You will be asked to display the contents of your pockets to the collector. If there appears to be an item that may be used to adulterate a specimen, this item is to be left outside with other personal belongings. You may be subject to an observed specimen. You may retain your wallet, and you may ask for a receipt for any personal belongings.

• When instructed by Collection Technician, wash and dry your hands.

• You may provide the specimen in the privacy of a bathroom stall or otherwise partitioned area that allows for individual privacy.

You must provide at least 45ml of urine in your specimen collection cup. If you cannot meet this requirement, or if you are just not able to provide a specimen you will be given a 3 hour period during which you can provide the specimen. During that period, you will be given up to 40 ounces of liquid. You must take in the liquid up until the point that you are ready to provide a specimen. If you are unable to provide a sample within the 3 hour period, your employer must send you to a physician to determine if there is a legitimate reason why you could not physically provide a sample. If the physician identifies a legitimate reason, you will be excused from the test. If there is no legitimate reason, your test will be treated as a REFUSAL.

• You should observe the entire collection procedure. The Collection Technician will check the specimen for volume, temperature, and color. The Collection Technician will then seal the bottle with a tamper-proof seal.

• You should initial the bottle seal on the specimen bottle to certify that it is your specimen.
• You should complete the information on the pink copy of the Custody and Control Form. You will be given a copy of the completed form after the Collection Technician has completed his/her certification.

• You should NOT list medications/prescriptions on any other copy of the form except the copy which you are given for your records. In the event that you are taking any prescription medications, the Medical Review Officer (MRO) will call you to ask what they are.

• The results of the laboratory analysis will be forwarded to your employer's MRO. If the laboratory results are negative, the MRO will notify your employer. If the laboratory results are positive, the MRO will contact you at the telephone number you provided. This will give you the opportunity to discuss the test results and to submit information demonstrating authorized use of the drugs in question.
14.0 CATEGORIES OF SAFETY SENSITIVE EMPLOYEES

Employees who perform safety sensitive duties or functions directly or by contract for an employer must be tested pursuant to an FHWA approved alcohol misuse prevention program. The following are the job functions to be tested: Every person and all employers of such persons who operate a commercial motor vehicle in commerce in any State and is subject to: the commercial driver’s license requirements.

PERFORMING A SAFETY SENSITIVE FUNCTION:

An employee is considered to be performing a safety-sensitive function and therefore required to be in compliance with the drug testing program during any period in which he or she is actually performing, ready to perform or immediately available to perform such functions.

DRUGS WHICH ARE TESTED FOR:
Marijuana, Cocaine, PCP, Amphetamines, Ecstasy, Opiates, Heroin

15.0 REASONS FOR DRUG TESTING

PRE-EMPLOYMENT

Before an employee is hired for a safety sensitive position, he/she must undergo a pre-employment drug test. This includes employees moving from non-covered function to a safety sensitive function. The employer shall not allow the individual to perform any safety sensitive duties until the employer receives a NEGATIVE pre-employment test result.

If the employee leaves the company and then returns he/she must retake the pre-employment drug test if there is more than a 180 day time lapse.

RANDOM

The random testing rate for the FAA is 25% of either the consortium pool you are in or just your company alone. This means if you are in a pool of 800 employees, 200 tests must be completed by the end of the calendar year. This may mean that employees in your company may test more or less than the 25%. If you are in a stand-alone pool and you have 100 employees, 25 tests must be completed by the end of the year.

All employees have an equal chance of being selected each time the random selection is done.

After notification from the employer, the employee must proceed immediately to the collection site. On the notification form NADE provides you, the employer should note the time notified.
REASONABLE SUSPICION

A covered employee must submit to testing if directed to do so based upon the decision of a supervisor trained in the detection of the symptoms of possible drug use. This decision shall be concurred by an additional supervisor only if you have 50 or more employees. The decision to test must be based on a reasonable and articulate belief that the employee is using prohibited drug(s) on the basis of specific contemporaneous physical, behavioral or performance indicators of probable drug use.

POST-ACCIDENT-FHWA

Disabling accident means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manager in daylight after simple repairs, including damage to motor vehicles that could have been drive, but would have been further damaged if so driven. An employer shall test each employee who performs a safety sensitive function for the presence of drugs if that employee’s performance either contributed to an accident or can not be completely discounted as a contributing factor to the accident.

RETURN TO DUTY

Each employer shall ensure that any employee before being put back into their safety sensitive position must receive a NEGATIVE drug and/or alcohol test result following a verified positive or a refusal to submit to testing. All collections will be observed.

FOLLOW UP

After receiving the negative test result on a return to duty test, the employer must ensure that a program of unannounced tests be conducted on the employee who either had the verified positive or refused to test. The number and frequency of testing shall be determined by the SAP and must consist of at least six tests conducted during the first twelve months following the employee’s return to duty. Follow up testing must not exceed 60 months. After the first six tests have been conducted the SAP may re-evaluate the situation and discontinue follow up testing. All collections will be observed.

OBSERVED SPECIMEN COLLECTION

Effective August 25, 2008, all Return to Duty and Follow-up testing will be done under observed collection procedure as there is ample evidence suggesting that more and more devices are available in the market place designed to tamper with specimens. Direct observation collection was implemented August 31, 2009.

1. The direct observation procedures require the observer to check for these devices when an employee is subject to an observed collection.
   a. Employees with dilute specimens with creatinine in the 2-5 range.
b. Employees with invalid test results with no valid medical explanation.
c. Employees who tested positive, adulterated or substituted and their split specimens were not available for testing (splits not collected, missing or destroyed in transit).
d. Employees who submit out-of-temperature range specimens or tampered-with specimens at collection sites.
e. Employees with prior positives and refusals. Return-to-Duty and Follow-up drug testing under direct observation goes from employer option under the old rules to **required** under the new amendment.

2. The guidelines state that employees having observed collections must be instructed to raise clothing, just above the navel; lower clothing, to mid-thigh; then turn around to show the same gender observers they do not have prosthetic devices for tampering with the tests. If no device is detected, the employee is permitted to return clothing to its proper observed-collection position. Then the observed collection will take place.

The following refusals to test are also noted:

1. An employee admits to the collector that he or she adulterated or substituted their specimen.

2. The employee behaves in a confrontational way that disrupts the collection process.

3. The employee fails to follow the observer’s instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.

4. The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.

5. The employee refuses to wash his or her hands-after being directed to do so.

**SPLIT SPECIMEN**

Under 49 CFR Part 40 anyone regulated to do drug testing is required to collect a split specimen at that time. If a drug test comes up positive and if verified by the Medical Review Officer, the employee has the right to notify the MRO within 72 hours that he/she would like the second specimen tested at a second DHHS laboratory.

**16.0 REQUIREMENT TO SUBMIT**

Covered employees are required to submit to drug tests administered in accordance with this program under 14 CFR Part 382.
EMPLOYEE ANI-DRUG TRAINING QUIZ

1. My Anti-Drug manager (DER) is:

___________________________________________________

2. Please circle the seven drugs which are tested for under the DOT testing program:

<table>
<thead>
<tr>
<th>Drug</th>
<th></th>
<th>Drug</th>
<th></th>
<th>Drug</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Valium</td>
<td>LSD</td>
<td>Marijuana</td>
<td>Nicotine</td>
<td>Opiates</td>
<td></td>
</tr>
<tr>
<td>Barbiturates</td>
<td>Amphetamines</td>
<td>Cocaine</td>
<td>PCP</td>
<td>Inhalants</td>
<td></td>
</tr>
<tr>
<td>Ecstasy</td>
<td>Heroin</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. What are the reasons I may need to complete a drug test:

- Pre-employment
- Return to Duty/Follow-Up
- Random
- To pass a physical
- Post-accident
- Insurance purposes
- Reasonable cause
- Union membership

4. Check below which are health and safety hazards:

- Workman compensation claims
- Accidents on/off job
- Increased use of medical benefits
- Increase in sick time

5. True or False. A random test when taken is the only one you will ever have to take this year.

6. True or False. Random selections are picked by your supervisors.

7. True or False. When taking a drug test, the tests are analyzed by your local hospital.

8. True or False. The results of the drug tests are reviewed by a Medical Review Officer (MRO) who is a licensed physician with knowledge of substance abuse.

9. True or False. When the employee goes for his/her drug test, photo identification is needed.
10. True or False. If the MRO confirms a positive test, he then calls the employee first to determine if there is a legitimate medical reason for the positive and then calls the employer.

11. True or False. If you test positive by taking another person’s prescription medication, the MRO will accept this as a legitimate excuse.

12. Briefly state what your company policy says what will happen to you if you test positive on a drug test.

13. True or False. Does refusing to take a drug test have the same result as a positive drug test.

14. Marijuana, what does it look like and name two associated terms for it.

15. Cocaine, what does it look like and name two associated terms for it.

16. Opiates, what does it look like and name two associated terms for it.

17. True or False. Opiates may come up either in the form of morphine or codeine. Do physicians prescribe these?

18. Amphetamines, what does it look like and name two associated terms.

19. PCP, what does it look like and name two associated terms.

20. Where and how can you get more drug information if needed.
Family and Medical Leave

This policy is applicable to all requests for family and medical leaves of absences under the Family and Medical Leave Act of 1993 (FMLA). Once family and medical leave is exhausted, including any accrued paid leave which the Town requires an employee to use as part of a family leave or medical leave of absence, eligible employees may take leave pursuant to the Town's other leave policies as may exist, subject exclusively to the terms and conditions contained in the applicable collective bargaining agreement or in that separate leave policy.

Falsification of records and failure to correct records known to be false (even if true when given) are prohibited. Violation of this provision will result in discipline up to and including termination in accordance with Civil Service Law and the terms of the CSEA contract, where applicable.

I. Eligibility

To be eligible for FMLA leave, an employee must have been employed by the Town for at least a total of 12 months and at least 1,250 hours over the past 12 months.

The 12 months need not be consecutive. Employment periods prior to a break in service of seven years or more need not be counted unless: (1) the break is service was occasioned by the employee’s fulfillment of his/her Uniformed Services Employment and Reemployment Rights Act (USERRA) covered service obligation; or (2) there is a written agreement pursuant to which the Town has agreed to rehire the employee after the break in service.

Any week (or part thereof) during which the employee in maintained on the payroll (including any periods of paid or unpaid leave) during which other benefits or compensation are provided by the Town count as a week of employment.

An employee returning from USERRA-covered service will be credited with hours of service that would have been performed but for the employee’s service. Thus, any employee reemployed following USERRA-covered service has the hours which would have been worked for the Town added to any hours actually worked during the previous 12-month period.

II. Leave Entitlement

FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave each 12 month period (a rolling 12 month period that is measured backwards from the start date of any given leave to see how much leave was taken) for one or more of the following reasons: the birth of a child; the placement of a child for adoption or foster care; the care of an immediate family member (spouse, child or parent) with a serious health condition; or a serious health condition that makes the employee unable to work. There are also special provisions that apply to military families.
For purposes of this policy, a "serious health condition" is an illness, injury, impairment or physical or mental condition that involves inpatient care as defined by the FMLA or continuing treatment by a health care provider as defined by the FMLA.

III. Procedure

An employee requesting FMLA leave must submit the written leave request to his/her immediate supervisor at least 30 calendar days before the date the leave is intended to begin.

The Town recognizes that unexpected emergencies may arise where it is not possible to provide 30 calendar days' notice of the intended leave. In such situations, employees are expected to provide as much advance notice as is practicable.

IV. Medical Certification

In cases where an employee is requesting a medical leave because of the employee's own serious health condition or that of his/her spouse, child or parent, the Town will require the employee to submit written medical certification, verifying the need for the leave when the employee provides notice of the need for leave or within five business days thereafter. The employee must provide a complete and sufficient certification within 15 calendar days after the Town’s request, unless it is not practicable under the circumstances to do so.

If an employee fails to provide a complete and sufficient certification to support his/her reason for taking the leave, the Town will notify the employee in writing with regard to what additional information is necessary. The employee will have seven calendar days to cure the deficiency. If the deficiencies are not cured in the resubmitted certification, the Town may deny FMLA leave.

The Town at its own expense may require the employee to receive a second opinion from a health care provider designated and approved by the Town. This will not be a health care provider regularly used by the Town. If this opinion conflicts with the first opinion, the Town, again at its own expense, may request a third opinion from a health care provider mutually agreed upon by both the Town and the employee. The third opinion will be binding on both parties.

A. Employee's Own Medical Condition

For the employee's own medical leave, the certification must include the following information from the employee's attending physician:

1. the name, address, telephone number and fax number of the health care provider and type of medical practice/specialization;

2. the date on which the serious health condition began and its probable duration;

3. a statement or description of appropriate medical facts regarding the patient’s health condition; and
4. information sufficient to establish that the employee is unable to perform the essential functions of his/her position as well as the nature of any other work restrictions, and the likely duration of the employee’s inability.

B. Medical Leave to Care for Family Member

If the leave is being requested to care for a spouse, child or parent with a serious health condition, the written certification must include the following information from the family member's attending physician:

1. the name, address, telephone number and fax number of the health care provider and type of medical practice/specialization; and

2. the date on which the serious health condition began and its probable duration; and

3. a statement or description of appropriate medical facts regarding the patient’s health condition; and

4. a statement that the family member is in need of care and an estimate of the frequency and duration of the leave required to care for the family member.

C. Certification for Intermittent or Reduced Schedule Basis

If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee’s or a covered family member’s serious health condition, the certification must include information sufficient to establish the medical necessity for the leave and an estimate of the dates and duration of the treatment and any periods or recovery.

If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee’s serious health condition, including pregnancy that may result in unforeseeable episodes of incapacity, the certification must include information sufficient to establish the medical necessity for the leave and an estimate of the frequency and duration of the episodes of incapacity.

If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee’s or a covered family member’s serious health condition, the certification must include a statement that the leave is medically necessary to care for the family member and an estimate of the frequency and duration of the required leave.

V. Qualifying Exigency Military Family Leave

FMLA eligible employees who have a spouse, son, daughter, or parent (the “military member”) who is on covered active duty, has been called to covered active duty status or has been notified of an impending federal call or order to active duty may take up to 12 weeks of unpaid leave to take care of personal matters related to any of the following:
1. Short-notice deployment (notice of seven or less days prior to the date of deployment) (leave for this purpose can only be used for a period of seven calendar days beginning on the date a military member is notified of an impending call or order to active duty)

2. Military events and related activities in advance of and during deployment as defined by the FMLA;

3. Childcare and school activities that are necessitated by the covered active duty or call to covered active duty status of a military member as defined by the FMLA;

4. Financial and legal arrangements as defined by the FMLA;

5. To attend counseling as defined by the FMLA;

6. To spend time with the military member on rest and recuperation leave as defined by the FMLA;

7. To attend post-deployment activities as defined by the FMLA; and

8. Parental care as defined by the FMLA; and

9. Additional activities mutually agreed to by the Town and employee.

For the purposes of leave for childcare and school activities only, the definition of a child of a military member includes a biological, adopted, or foster child, a stepchild, a legal ward of the covered military member, or a child for whom a covered military member stands in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time the leave is to commence.

For all other purposes, the military member must be the employee’s spouse, son, daughter or parent. A “son or daughter on covered active duty or called to covered active duty status” means the employee’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age.

The first time that an eligible employee requests qualifying military exigency FMLA leave, the employee must provide the Town with a copy of the military member’s orders or other military documentation showing the military member’s call to covered active duty and expected dates of the covered active duty service. In addition, for each qualifying exigency leave requested with regard to that military member, the employee must provide the Town with written certification that includes, among other information, the reason and anticipated duration of leave. A certification form will be provided by the Town for this purpose when a request for qualifying exigency leave is made.
VI. Military Caregiver Leave

An eligible employee who is the spouse, son, daughter, parent or next of kin (as that term is defined by the FMLA regulations issued by the U.S. Department of Labor) of a “covered service member” is entitled to up to 26 workweeks of leave during a single 12-month period to care for a covered service member with a serious illness or injury.

A covered service member is defined as:

1. a current member of the Regular Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or

2. a covered veteran (as defined by the FMLA) who is undergoing medical treatment, recuperation or therapy for a serious injury or illness.

In the case of a current member of the Armed Forces, including a member of the National Guard or Reserves, serious injury or illness means an injury or illness that was incurred in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member’s military office, grade, rank or rating.

In the case of a covered veteran, serious injury or illness means an injury or illness that was incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:

1. a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member’s office, grade, rank or rating;

2. a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave;

3. a physical or mental condition that substantially impairs the covered veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or

4. an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
The employee is only entitled to take the leave during one 12-month period measured forward from the date the leave begins. If an eligible employee does not take all 26 workweeks of leave during this period, the remaining weeks are forfeited. Additional leave may be taken in other 12-month periods for another covered service member or for the same covered service member with a subsequent injury or illness, except that no more than 26 workweeks may be taken within any single 12-month period. Eligible employees may still take up to 12 workweeks of FMLA leave for another covered purpose during the same time period, but the total amount of leave (including military caregiver leave) during that 12-month period may not exceed 26 workweeks. Leave that qualifies as both military caregiver leave and traditional FMLA leave for a family member with a serious health condition will be designated as military caregiver leave.

A husband and wife who are eligible for FMLA leave and are both employed by the Town are limited to a combined total of 26 workweeks of leave during the 12-month period if the leave is taken for the birth of a child or to care for the child after birth, for the placement of a child with the employee for adoption or foster care, to care for the child after placement, to care for the employee’s parent with a serious health condition or to care for a covered service member with a serious injury or illness. If one spouse is ineligible for FMLA leave, the other spouse is entitled to the full 26 workweeks of FMLA leave.

In the context of military caregiver leave, the terms “son or daughter of a covered service member” are defined as the service member’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age. A “parent of a covered service member” is defined as a covered service member’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. The term does not include parents-in-law.

Eligible employees who request to take military caregiver leave will be required to provide certification from the service member’s authorized health care provider. A certification form will be provided by the Town for this purpose. In lieu of this certification, an eligible employee may provide the invitational travel order (ITO) or invitational travel authorization (ITA) issued by the federal government to the employee or any family member to join an injured or ill service member at his or her bedside. Second and third opinions and recertifications will not be requested for military caregiver leave.

VII. Substitution of Paid and Unpaid Leave

An employee taking FMLA leave will be required to substitute any accrued paid vacation, personal and/or sick leave for any of the 12 workweeks of unpaid FMLA leave set forth in this policy. The remainder of the FMLA leave will be unpaid. The employee will be notified in writing that the vacation time, personal leave and/or sick days will be counted towards the 12 weeks of FMLA leave.

Any unpaid leave available under Town policy that is available for purposes consistent with FMLA purposes may be used. This leave will be counted towards an employee's FMLA entitlement.
VIII. Intermittent and Reduced Schedule Leave

FMLA leave time may be taken intermittently (or on a reduced schedule basis) whenever the leave is medically necessary to care for a spouse, child, or parent with a serious health condition, or because the employee has a serious health condition or is caring for a serious injury or illness of a covered service member which requires periodic treatment by a health care provider periodically.

Intermittent leave will not be granted for the birth or placement of a child.

If the need for intermittent leave is foreseeable, based on planned medical treatment, the employee is responsible for scheduling the treatment in a manner that does not unduly disrupt the Town's operations. Consequently, the employee must consult with the administration before scheduling such leave. The Town reserves the right to request that such leave be rescheduled.

When an employee requests intermittent leave or reduced schedule leave, the Town reserves the right to transfer the employee temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule. The position to which the employee is transferred will be equivalent in pay and benefits to the one that the employee held prior to the transfer.

IX. Recertification

Employees who are on medical leave because of their own serious health condition or to take care of a spouse, child or parent with a serious health condition are required to submit to the Personnel Department on a monthly basis a written recertification of the need to remain on the leave every 30 days, except that if the medical certification states that the minimum duration of the condition is more than 30 days, recertification will not be required before that minimum duration expires.

In any case, recertification may be required every six months in connection with an absence by the employee.

The Town may request recertification on a more frequent basis if:

1. the employee requests an extension of leave; or
2. changed circumstances occur regarding the illness or injury; or
3. the Town receives information that casts doubt upon the continuing validity of the most recent certification; or
4. When an employee is unable to return to work at the conclusion of FMLA leave because of the continuation, recurrence or onset of a serious health condition thereby preventing the Town from seeking reimbursement for group health premiums paid on the employee’s behalf during a period of unpaid FMLA leave.
X. **Return to Work Certification**

All employees taking medical leave to care for their own serious health condition will be required to submit to the Supervisor, or his/her designee, an original copy of a fitness-for-duty certification signed by their health care provider before returning to work, stating that the employee is able to resume his/her position.

XI. **Status of Benefits While on Leave**

While an employee is on FMLA leave pursuant to this policy, he/she will continue to be covered under the Town's group health, dental and optical, life and other insurance plans in effect and so chosen by the employee, so long as the employee continues to pay the employee portion of the premium costs, if any.

At the time an employee begins unpaid family or medical leave, he/she shall receive written instructions detailing the time and manner in which the employee's required contribution toward premiums, if any, are to be paid. Failure to pay these premiums by the end of the grace period stated in the written instructions shall result in the loss of health, dental and optical, life and other insurance coverage so chosen by the employee.

An employee who fails to return to work for at least 30 calendar days following the expiration of the unpaid family or medical leave shall be required to reimburse the Town for the portion of the health care premiums paid by the Town during the unpaid leave unless the employee can establish that the failure to return was due to the continuation, recurrence or onset of a serious health condition which meets the criteria for leave under this policy or was due to other circumstances beyond the employee's control.

XII. **Restoration of Benefits and Position at the Conclusion of Leave**

The employee on FMLA leave is not entitled to the accrual of any seniority or employment benefits, such as vacation or sick days, during any period of leave except as expressly stated herein or as provided by law. At the conclusion of an employee's FMLA leave, the employee will be returned to the position that the employee held prior to taking the leave. If that position is not available, the employee will be placed in a position that is equivalent in pay, conditions and other terms of employment as the employee's prior position. When the employee returns to active work following the FMLA leave, any benefits which have lapsed during the leave shall be reinstated as if the employee had remained actively employed during the leave except that the employee shall not accrue any additional benefits or seniority during the time of the leave.

XIII. **Key Employees**

A key employee is a salaried, eligible employee who is among the highest paid ten percent of employees of the Town. Subject to limitation of contract and/or State law, the Town may refuse to reinstate key employees after using FMLA leave if it determines that substantial and grievous economic injury would result from reinstatement. The Town will give notice in writing at the commencement of FMLA leave, or as early as practicable, to an employee that he/she is a key
employee. If this determination is made, the employee will be given an opportunity to end the leave and return to work. If the employee remains on leave, he/she will not have a right to be restored to employment.

XIV. Continuation of Leave

An employee who wishes to take more leave than provided by this policy must take leave pursuant to another Town leave policy or contract, if any. The reinstatement of an employee, and the employee's right to continue group health coverage by only paying the employee's portion of the premiums (and any other benefit rights listed in this policy), are, however, protected only for the 12 workweeks of FMLA leave, unless otherwise provided by contract, policy or state law.

XV. Reservation of Rights

The Town will comply with all legal requirements for providing FMLA leave to eligible employees. To the extent the law permits Town discretion, the Town hereby expressly reserves the right to modify, change or eliminate any provision of this policy with respect to any employee or group of employees and does not intend to create a contractual commitment to any employee by issuing this policy.
Fact Sheet #28: The Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. This fact sheet provides general information about which employers are covered by the FMLA, when employees are eligible and entitled to take FMLA leave, and what rules apply when employees take FMLA leave.

COVERED EMPLOYERS

The FMLA only applies to employers that meet certain criteria. A covered employer is a:
- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

ELIGIBLE EMPLOYEES

Only eligible employees are entitled to take FMLA leave. An eligible employee is one who:
- Works for a covered employer;
- Has worked for the employer for at least 12 months;
- Has at least 1,250 hours of service for the employer during the 12 month period immediately preceding the leave*; and
- Works at a location where the employer has at least 50 employees within 75 miles.

* Special hours of service eligibility requirements apply to airline flight crew employees. See Fact Sheet 28J: Special Rules for Airline Flight Crew Employees under the Family and Medical Leave Act.

The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count unless the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer’s intention to rehire the employee after the break in service. See "FMLA Special Rules for Returning Reservists".

LEAVE ENTITLEMENT

Eligible employees may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:
• The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
• To care for a spouse, son, daughter, or parent who has a serious health condition;
• For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
• For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also take up to 26 workweeks of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons. See Fact Sheets 28F: Qualifying Reasons under the FMLA and 28M: The Military Family Leave Provisions under the FMLA.

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer’s approval.

Under certain conditions, employees may choose, or employers may require employees, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave period. An employee’s ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

**NOTICE**

Employees must comply with their employer’s usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request. Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. If an employee later requests additional leave for the same qualifying condition, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. See Fact Sheet 28E: Employee Notice Requirements under the FMLA. Covered employers must:

1. Post a notice explaining rights and responsibilities under the FMLA (and may be subject to a civil money penalty of up to $110 for willful failure to post);
2. Include information about the FMLA in their employee handbooks or provide information to new employees upon hire;
(3) When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA-qualifying reason, provide the employee with notice concerning his or her eligibility for FMLA leave and his or her rights and responsibilities under the FMLA; and

(4) Notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee’s FMLA entitlement.

See Fact Sheet 28D: Employer Notice Requirements under the FMLA.

CERTIFICATION

When an employee requests FMLA leave due to his or her own serious health condition or a covered family member’s serious health condition, the employer may require certification in support of the leave from a health care provider. An employer may also require second or third medical opinions (at the employer’s expense) and periodic recertification of a serious health condition. See Fact Sheet 28G: Certification of a Serious Health Condition under the FMLA. For information on certification requirements for military family leave, See Fact Sheet 28M(c): Qualifying Exigency Leave under the FMLA; Fact Sheet 28M(a): Military Caregiver Leave for a Current Servicemember under the FMLA; and Fact Sheet 28M(b): Military Caregiver Leave for a Veteran under the FMLA.

JOB RESTORATION AND HEALTH BENEFITS

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee’s use of FMLA leave cannot be counted against the employee under a “no-fault” attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave. See Fact Sheet 28A: Employee Protections under the Family and Medical Leave Act.

OTHER PROVISIONS

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent or reduced schedule FMLA leave or the taking of FMLA leave near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under the FLSA regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the “salary basis” requirements for FLSA’s exemption extends only to an eligible employee’s use of FMLA leave.

ENFORCEMENT

It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any
proceeding, related to the FMLA. See Fact Sheet 77B: Protections for Individuals under the FMLA. The Wage and Hour Division is responsible for administering and enforcing the FMLA for most employees. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress. If you believe that your rights under the FMLA have been violated, you may file a complaint with the Wage and Hour Division or file a private lawsuit against your employer in court.

For additional information, visit our Wage and Hour Division Website: http://www.wagehour.dol.gov and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4-USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210
December 9, 2007

Memorandum: To all CSEA Employees; Department Heads

Re: FMLA/Sick Hotline

Pursuant to the currently negotiated CSEA contract, in order to be eligible for sick leave on any given day, an employee must, after contacting his/her department head or immediate supervisor as per departmental policy, also call the FMLA/Sick line at 631-727-3200, ext. 777.

Effective January 1, 2008, failure to adhere to the above will result in forfeiture of a day’s pay. Vacation or personal time will not be substituted for sick time.

Thank you for your anticipated cooperation with the above.

Meg Ferris
Personnel
SEXUAL AND OTHER PROHIBITED FORMS OF HARASSMENT COMPLIANT FORM

Name and position of complainant: ________________________________________________

Date of complaint: _____________________________________________________________

Name of alleged harasser: ______________________________________________________

Date and place of incident: ______________________________________________________

Description of misconduct: _____________________________________________________

Name of witnesses (if any): _____________________________________________________

Has the incident been reported before? _____________ If yes, when? __________________

To Whom? ___________________________________________________________________

What was the resolution? _______________________________________________________

Reason for dissatisfaction: _____________________________________________________

_____________________________________________________
Signature

_____________________________________________________
Print name

_____________________________________________________
Date
SEXUAL AND OTHER PROHIBITED FORMS OF HARASSMENT APPEAL FORM

Name and position of complainant: ________________________________________________

Date of appeal: ________________________________________________________________

Date of original complaint: ______________________________________________________

Have there been prior appeals? _________________________________________________

Description of decision being appealed? _________________________________________

Why is the decision being appealed? ____________________________________________

______________________________________________
Signature

______________________________________________
Print Name

______________________________________________
Date
Town Of Riverhead

No Smoking Policy

In keeping with the Town of Riverhead's intent to provide a safe and healthful work environment, and in accordance with the New York State Clean Indoor Air Act, smoking is prohibited throughout the workplace, and in any building or facility owned by the Town of Riverhead, and in any Town vehicle, without exception.

This policy applies equally to all employees and visitors.

Please detach and remit acknowledgement to your Department Head

Acknowledgement

I have received today a copy of the Town’s No Smoking Policy.

______________________________
Print Name

______________________________
Signature

______________________________
Date
Your Retirement Plan
Coordinated Plan
For ERS Tier 3 and 4 Members
(Articles 14 and 15)

New York State Office of the State Comptroller
Thomas P. DiNapoli
New York State and Local
Employees' Retirement System
A Message From Comptroller Thomas P. DiNapoli

As a member of the Retirement System, you are covered by a plan that provides important benefits. This presentation explains some of those benefits and the services available to you as a member of our system, including:

• Benefits you will receive at retirement if you meet the service and age requirements (service retirement benefits);

• Benefits you may receive if you become permanently disabled (disability retirement benefits);

• Benefits your beneficiary may receive if you die while working for a public employer or, if eligible, after you leave public employment (death benefits); and

• Benefits you may receive at a later date, even if you leave public service before you become eligible to retire (vested benefits).

I am joined by a staff of dedicated professionals in my commitment to helping you make informed decisions about your future. I encourage you to contact us with any questions or suggestions you might have.

Sincerely,

Thomas P. DiNapoli
State Comptroller
About Your Membership

**Retirement System Membership**

Permanent, full-time employees of employers that participate in the New York State and Local Employees’ Retirement System (ERS) must become members of the Retirement System.

Under any of the following four scenarios, however, membership is optional:

- You are appointed to a temporary or provisional position;
- You work less than 30 hours per week, or less than the standard number of hours for full-time employment as established by your employer for your position;
- Your job is supposed to last for less than one year, or you work on a less than 12 months per year basis; or
- Your annual salary is less than New York State’s minimum wage, multiplied by 2,000 hours.

When you become a Retirement System member, you must complete and file a membership application with the Office of the State Comptroller.

**Tier Status**

When you join the Retirement System, you are assigned to a tier depending on your date of membership.

If you joined the Employees’ Retirement System on or after July 27, 1976 but before September 1, 1983, you are in Tier 3.
If you joined on or after September 1, 1983 up to and including December 31, 2009, you are in Tier 4.

Members who joined January 1, 2010 or after are in Tier 5 and should refer to the publication that describes Tier 5 benefits.

**CONTRIBUTING TOWARD YOUR RETIREMENT**

Effective October 1, 2000, until you either accrue ten years of service credit or have been a member of the Retirement System for ten years after your date of membership, you are required to contribute 3 percent of your gross earnings toward your retirement benefits. If you are employed by more than one participating employer, once you join the Retirement System, all salary and service earned in connection with all employment must be reported to this System, even if your membership is only mandatory with one.

Under Internal Revenue Code Section 414(h) (as of July 1, 1989), your required 3 percent contributions are tax-deferred until they are distributed to you. These contributions are reportable for federal income tax only when you withdraw or retire from the Retirement System. Therefore, your 3 percent contributions are:

- Not reported as wages for federal income tax;
- Reported as wages for New York State and local income taxes;
- Reported as wages for Social Security;
- Reported as wages to the New York State and Local Employees' Retirement System, and used in the calculation of all benefits paid by the Retirement System; and
- Calculated on your full gross salary, before any salary reductions for any other tax-deferred plan.
**BECOMING ELIGIBLE FOR A BENEFIT**

Once you have accrued five years of credited service, you will be vested. This means you have earned the right to receive a retirement benefit, even if you leave public employment.

You can begin receiving your vested retirement benefit when you reach age 55. The amount of your vested benefit is based on your service, age at retirement and the salary you earned when you were an active member.

Vesting is automatic — you do not have to fill out any paperwork or file an application to become vested. However, you will need to file an application to begin receiving your vested benefit.

**WITHDRAWING YOUR CONTRIBUTIONS AND/OR YOUR MEMBERSHIP**

If you leave public employment with at least five, but less than ten years of credited service, you may choose to:

- End your membership and withdraw your accumulated contributions (with interest compounded at 5 percent per year); or
- Leave your contributions in your account and qualify for a retirement benefit when you are 55.

To help you decide which would be more beneficial, use our benefit calculator to project your pension using the “vested retirement” choice, or you can contact our Call Center to request a benefit projection. This is especially helpful if you have an outstanding loan balance, because you will receive a projection and the amount your benefit would be reduced if you choose not to pay off the balance.
If you choose to withdraw, or you have less than five years of service and do not qualify for a retirement benefit, you should file the Withdrawal Application (RS5014) no earlier than 15 days after you leave public employment.

If you have at least five years of credited service, and you do not withdraw your membership, make sure to apply for a retirement benefit when you reach 55.

Once you have ten or more years of credited service, you cannot withdraw from the Retirement System.

**ENDING YOUR MEMBERSHIP**

Once you join, there are five ways your membership can end:

- If you do not have at least five years of credited service and seven years have elapsed since you last worked for a participating public employer;
- If you leave public employment before you have ten years of credited service and voluntarily withdraw your contributions;
- If you transfer your membership to another New York State public retirement system;
- If you retire; or
- If you die.

“Public employment” means paid service as an officer or employee with an employer that participates in the New York State and Local Retirement System.
Full-Time Employment

If you join the Retirement System on the day you begin employment with a participating employer, we calculate your retirement service credit by subtracting your beginning date of employment from the date you actually leave paid employment, as long as:

- You work on a full-time continuous basis; and
- You earn at least the annual equivalent of New York State’s annual minimum wage for your full career in public service.

“Full-time” is defined by your employer, but must be at least six hours per day, for a five-day week.

Institutional teachers, teachers working at schools for the deaf and blind, school district and Board of Cooperative Educational Services (BOCES) employees, and college employees in both classified and unclassified positions who work full-time for the school year receive a full year of service credit. "School year" refers to employment during the months of September through June.
**Part-Time Employment**

Part-time employment, except as noted below, is credited as the lesser of:

\[
\text{number of days worked} \div 260 \text{ days}
\]

or

\[
\text{annual salary reported} \div (\text{State's hourly minimum wage} \times 2,000)
\]

**For institutional teachers:**

\[
\text{number of days worked} \div 200 \text{ days}
\]

**For teachers working at New York State schools for the deaf and blind, BOCES and school district employees:**

\[
\text{number of days worked} \div 180 \text{ days}
\]

**For college employees:**

\[
\text{number of days worked} \div 170 \text{ days}
\]

Employers report your days worked and salary to us.

**Leaves of Absence**

Half credit is given for sick leave at half pay. Since service is usually not credited for any period of time you do not receive a salary, credit is not given for:

- Leaves of absence without pay;
- Authorized, unpaid medical leaves of absence; or
- Unpaid leave under the federal Family and Medical Leave Act.
Workers’ Compensation

State employees will receive up to one year of service credit per incident for time spent on Workers’ Compensation leave.

Non-State employees may be able to receive credit for some or all of your Workers’ Compensation leave. To determine your eligibility and the cost (if any), please send a request to the Retirement System for review.

Credit for Previous or Military Service

You may be able to obtain credit for your previous public employment or military service. It is very important that you claim all the service credit you are entitled to receive as early as possible, because records documenting your previous service may be lost or destroyed with the passage of time.

Prior Service

Prior service is any period of time you received salary from a participating employer before that employer elected to participate in the Retirement System. Tier 4 members must earn at least two years of credited service as a Retirement System member to receive credit for this service.

Example:

You worked for a municipality for six years before that municipality began participating and now you have joined the System. You can request credit for those six years, but for Tier 4 members, there would be a cost.
Service Before Your Date of Membership

You may receive credit for working for a participating employer before you joined the Retirement System. To obtain the credit, you must earn at least two years of credited service as a Retirement System member.

Example:
You worked at the town library while going to school and, as a part-time employee, you chose not to join the System. When you graduated and took a full-time job at the town supervisor’s office, you were required to join. You can choose to claim the part-time service, but there is a cost.

Military Service

You may be able to receive credit for some or all of your military service. To determine your eligibility and the cost, if any, please send us a copy of your Certificate of Release or Discharge from Active Duty (DD-214).

Service From a Previous Membership

If you previously were a member of this System, or another public retirement system in New York State, your service may be recredited and your date of membership and tier restored. We will initiate reinstatement to Tier 3 or an earlier date within Tier 3 or 4 by sending you information about your eligibility and giving you the opportunity to purchase credit for your withdrawn service. If your previous Tier 3 or 4 membership was with another retirement system, please write to our Member & Employer Services Bureau.

For reinstatement to Tier 1 or Tier 2, send us a completed Application to Reinstate a Former Tier 1 or 2 Membership (RS5506).
**Payment for Service Credit**

As a Tier 3 or 4 member, you will usually be required to pay for service currently not credited to you. There are two kinds of past service costs — mandatory and optional.

Mandatory costs are required for service credit you earned as a member but for which you made no (or insufficient) contributions.

**Example of Mandatory Past Service Costs:**

You joined the Retirement System on January 14, 2002, but your employer did not begin taking contributions from your paycheck until February 1, 2002. You would then need to make payments for January 14th through January 31st.

Optional costs are payments you choose to make to purchase credit for a period of previous or military service. Once you have made payment and have accrued two years of service credit as a member, you can receive that credit. Before you purchase optional past service credit, you must pay for any outstanding mandatory costs.

**Applying for Previous or Military Service Credit**

To receive credit for any type of previous or military service, send a written request (which must be received before your effective date of retirement) to our Member & Employer Services Bureau. Please include as much information as you can about the period of employment for which you are seeking credit. We will determine your eligibility to receive the credit and any cost involved.
Requesting credit for your previous public employment as early in your career as possible ensures that:

- It will be less expensive than if you wait to purchase it at a later date.
- Your retirement benefit will be processed more quickly if your service credit is in order.

If you are requesting previous service credit to establish eligibility for a vested retirement benefit, you should request credit while you are on the payroll of a participating employer. If you receive a statement of the cost after you leave the payroll, you must make payment within 30 days of notification. You can request credit for previous service after you leave the payroll, but you must pay the cost (if any) and return to the payroll of a participating employer for the service to be credited and for you to become vested.

**Please note that if your purchased service brings your total credited service to ten or more years, you will no longer be eligible to withdraw your contributions and end your membership.**

**Additional Service Credit for Sick Leave (Section 41[j])**

Section 41(j) of the Retirement and Social Security Law (RSSL) provides an optional sick leave benefit. If your employer has chosen to offer this benefit, you may receive service credit for your unused, unpaid sick leave days at retirement. To be eligible for this benefit, you must retire directly from public employment or within a year after separating from service. The additional credit is determined by dividing the total unused, unpaid sick leave days, which cannot exceed 165 (200 days for some members), by 260.
Contact your employer or refer to your Member Annual Statement to determine if this benefit is available to you.

Credit for your unused sick leave at retirement cannot be used to:

- Qualify for vesting. For example, if you have four-and-one-half years of service credit and you need five to be vested, your sick leave credit cannot be used to reach the five years.

- Qualify for a better retirement benefit calculation. For example, if you have 19½ years of service credit but your pension will improve substantially if you have 20 years, your sick leave credit cannot be used to reach the 20 years.

- Increase your pension beyond the maximum amount payable under your retirement plan.

- Meet the service credit requirement to retire under a special 20- or 25-year plan.

For more information, please visit: www.osc.state.ny.us/retire
Final Average Salary (FAS)

Your pension is based on your years of credited service, your age at retirement and your final average salary (FAS). FAS is the average of the wages you earned during any 36 consecutive months of service when your earnings were highest. This is usually the last three years of employment.

If the wages in any year included in the period exceed the average of the previous two years by more than 10 percent, the amount in excess of 10 percent is excluded from the computation of your FAS.

The calculation of your FAS can include, but is not limited to, the following types of payments. In some cases, certain restrictions may apply.

- Regular salary;
- Overtime earned in the period used in the FAS;
- Holiday pay;
- Noncompensatory overtime earned for each year in the FAS period;
- Longevity payments (maximum of three), if earned in the years used in the FAS calculation; and
- Up to 30 days vacation, if the FAS is based on the 36 months immediately preceding retirement.
The following types of payments are **not** considered regular compensation and, in most cases, will not be included in your FAS calculation.

- Unused sick leave;
- Payments made as a result of working your vacation;
- Any form of termination pay;
- Payments made in anticipation of retirement;
- Lump sum payments for deferred compensation; and
- Any payments made for time not worked.
ELIGIBILITY, THE BENEFIT AND FILING

Eligibility

You will be eligible for a service retirement benefit when you reach age 55 and have five or more years of credited member service. If you are a Tier 3 member, you may retire under Article 14 or Article 15. However, your pension, in most cases, will be greater under Article 15.

For the full retirement benefit, you must be 62 years old at retirement or, if you have 30 years of credited service, you may retire as early as age 55. With less than 30 years of service, you may retire as early as age 55, but you will receive a reduced benefit.

The Benefit

- If you retire with less than 20 years of service credit, your pension will equal 1/60th (1.66 percent) of your FAS for each year of service.
- With 20–30 years of service credit, your benefit will equal 1/50th (2 percent) of your FAS, multiplied by your years of credited service.
- For each year of credited service beyond 30 years, you will receive 3/200ths (1.5 percent) of your FAS.

Examples:

At age 62, with 19 years of service and an FAS of $35,000

\[
\frac{19 \text{ years} \times 35,000}{60} = \frac{665,000}{60} = 11,083 \text{ per year}
\]

\[
11,083 \text{ per year} = 924 \text{ per month}
\]
At age 62, with 20 years of service and an FAS of $35,000

\[
\frac{20 \text{ years} \times $35,000}{50} = \frac{$14,000}{\text{per year}} \quad \frac{1,167}{\text{per month}}
\]

At age 62, with 31 years of service and an FAS of $35,000

\[
\frac{30 \text{ years} \times $35,000}{50} = \frac{$21,000}{\text{per year}} \quad \text{plus}
\frac{(1 \text{ year} \times .015) \times $35,000 = $525}{\text{per year}}
\]

\[
\frac{$21,525}{\text{per year}} \quad \frac{1,794}{\text{per month}}
\]

**Filing**

Your Application for Service Retirement (RS6037) must be on file with the Office of the State Comptroller at least 15 days but not more than 90 days before the date on which your retirement will occur. The 15-day filing requirement is waived if you are over age 70 at retirement.

**Retiring Before Age 62**

If you retire with 30 or more years of service, your benefit will not be reduced as a result of retiring before age 62. With less than 30 years of service, your benefit will be reduced by the percentages shown below. The percentage of the benefit reduction is prorated based on your exact age at retirement.

<table>
<thead>
<tr>
<th>Age at Retirement</th>
<th>Percentage of Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>27</td>
</tr>
<tr>
<td>56</td>
<td>24</td>
</tr>
<tr>
<td>57</td>
<td>21</td>
</tr>
<tr>
<td>58</td>
<td>18</td>
</tr>
<tr>
<td>59</td>
<td>15</td>
</tr>
<tr>
<td>60</td>
<td>12</td>
</tr>
<tr>
<td>61</td>
<td>6</td>
</tr>
<tr>
<td>62</td>
<td>0</td>
</tr>
</tbody>
</table>
It is important to know that once you retire with a reduced benefit, the reduction is permanent — it does not end when you turn 62.

**Examples:**

**At age 55, with 19 years of service and an FAS of $35,000**

\[
\begin{align*}
19 \text{ years} \times $35,000 &= $11,083 \text{ per year} \\
&- 2,992 \quad * \\
&$8,091 \text{ per year} \\
&674 \text{ per month}
\end{align*}
\]

**At age 55, with 20 years of service and an FAS of $35,000**

\[
\begin{align*}
20 \text{ years} \times $35,000 &= $14,000 \text{ per year} \\
&- 3,780 \quad * \\
&$10,220 \text{ per year} \\
&852 \text{ per month}
\end{align*}
\]

**At age 55, with 31 years of service and an FAS of $35,000**

\[
\begin{align*}
30 \text{ years} x $35,000 &= $21,000 \text{ per year} \\
&\text{plus} \\
(1 \text{ year} x 0.015) x $35,000 &= $525 \text{ per year} \\
&$21,525 \text{ per year} ** \\
&1,794 \text{ per month}
\end{align*}
\]

* 27 percent benefit reduction

** With 30 or more years of service, no reduction at 55
Choosing a Payment Option

RECEIVING YOUR BENEFIT AND FILING YOUR OPTION+ELECTION

Receiving Your Benefit

At retirement, you must decide how you want your retirement benefit paid. You can choose from several options, all of which will provide you with a monthly benefit for life. For example, you may elect the Single Life Allowance, which provides the maximum amount payable during your lifetime, with nothing payable to a beneficiary upon your death. Or, you may elect to receive a smaller monthly benefit to provide for a possible payment to a designated beneficiary after your death.

Filing Your Option Election

You must file your Option Election form (unless notified otherwise, as in the case of disability retirement) before the first day of the month following your retirement date. You have up to 30 days after your pension benefit becomes payable to change your selection. If you are a disability retiree, you may change your option selection up to 30 days after your disability application is approved, or up to 30 days after your retirement date, whichever is later.

If your election is not timely, by law, we must process your retirement as if you had selected the Single Life Allowance (Option 0).
AVAILABLE OPTIONS

Single Life Allowance (Option 0)
This is the basic retirement benefit. It provides the maximum benefit payment to you each month for the rest of your life. Under this selection, all payments cease upon your death. When you die (even if it is only one year, or sooner, after retiring), nothing will be paid to any beneficiary.

Joint Allowance — Full*
This option will provide you with a reduced monthly benefit for your lifetime, and is based on your birth date and that of your beneficiary. After your death, your beneficiary will receive the same monthly amount (without COLA) for life. If your beneficiary dies before you, all payments will cease upon your death.

Joint Allowance — Partial*
This option will provide you with a reduced monthly benefit for your lifetime, and is based on your birth date and that of your beneficiary. After your death, your beneficiary will receive a specific percentage of your benefit (without COLA) which you select (75, 50, or 25 percent) for life. If your beneficiary dies before you, all payments will cease upon your death.

Pop-Up/Joint Allowance — Full or Half*
These options will provide you with a reduced monthly benefit for your lifetime. If you die before your beneficiary, we will continue paying the same monthly amount or one-half that amount (without COLA), depending on which option you elect, to your beneficiary for life. If your beneficiary dies first, your benefit will be increased to the amount you would have received if you had selected the Single Life Allowance at retirement, and all payments will cease upon your death.
**Five Year Certain and Ten Year Certain**

These options will provide you with a reduced monthly benefit for your lifetime, with the additional guarantee that if you live for less than five years or ten years after retirement, depending upon which option you elect, payments in the same amount you were receiving (without COLA) will be made to your beneficiary for the balance of the five- or ten-year period. You may change your beneficiary within the five- or ten-year period.

**Alternative Options**

If the options described here do not meet your needs, we will consider written requests for other payment methods. These requests must be outlined in detail by you and then approved by us for legal and actuarial soundness.

* If you elect this option, you must submit proof of your beneficiary’s birth date. You can designate only one beneficiary and you cannot change your designation after your retirement. If your beneficiary is your spouse at the time of your death, he or she will be eligible for 50 percent of your COLA.
Items That May Affect Your Pension

**IRS Pension Limitation**

Internal Revenue Code Section 401(a)(17) limits the amount of salary that qualified pension plans, including the New York State and Local Retirement System, may use in calculating benefits. It affects members who join on or after April 1, 1996, and currently excludes earnings over $245,000 (effective April 1, 2011) in the State’s fiscal year (April 1st – March 31st). The amount is set by federal law and is periodically adjusted for inflation.

**Borrowing Against Your Contributions**

If you meet eligibility requirements, you may take a loan from the Retirement System. To apply, you must file a Loan Application (RS5025-A) with us.

Before you apply, you should be aware of the federal tax laws pertaining to Retirement System loans. **Your loan will be taxable if:**

- The loan amount exceeds federal limits.
- You have a loan with a deferred compensation (457) or tax-sheltered annuity (403-b) plan through your current employer that causes your loan to exceed the federal limits for nontaxable loans. Exceeding these limits could result in significant tax consequences for you.
- You do not make the required payments on your loan at least once every three months or do not complete payment within five years from the date the loan was issued.
• You retire or withdraw from the Retirement System and have one or more outstanding loan balances.

If your loan is taxable, or becomes taxable as described above, you must include it on your federal income tax return for the year the loan is granted or becomes taxable. If you are under 59½ at the time, you may be required to pay a 10 percent penalty tax in addition to any ordinary federal income tax you owe. Please consider consulting a tax advisor before applying for a taxable loan from the Retirement System.

The following rules apply when borrowing against your contributions:

• You must be in active service and have one year of member service credit.

• Each loan must be for a minimum of $1,000, so you must have an account balance of at least $1,334. The total of all your loans may not be more than 75 percent of your contribution balance.

• You repay each outstanding loan through payroll deductions in an amount sufficient to repay the loan, interest and insurance premium within five years. The minimum deduction to repay your outstanding loan balances must be at least 2 percent of your salary.

• You may borrow only once in any 12-month period.

• Prior to retirement, and 30 days after issuance, loans are fully insured in case you die before repaying them.

If you retire with an outstanding balance, your retirement benefit will be permanently reduced. You cannot pay off your loan once you retire. The amount of your pension reduction will be based on your age, the loan balance at retirement, and type of retirement (regular service or disability).
These are examples of how your service retirement benefit will be permanently reduced by an outstanding loan balance at retirement. The approximate reductions are for calendar year 2012. The amount of the reduction changes annually.

<table>
<thead>
<tr>
<th>Age at Retirement</th>
<th>Outstanding Loan Balance</th>
<th>Annual Pension Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>$5,000</td>
<td>$271</td>
</tr>
<tr>
<td></td>
<td>$10,000</td>
<td>$542</td>
</tr>
<tr>
<td>62</td>
<td>$5,000</td>
<td>$317</td>
</tr>
<tr>
<td></td>
<td>$10,000</td>
<td>$633</td>
</tr>
</tbody>
</table>

If you already have an outstanding loan with us and want to take a new loan, please contact our Call Center and connect with our automated information line to determine if refinancing your current loan or carrying multiple loans would be better for you. Although the repayment amount may be larger if you choose multiple loans, the taxable amount of a refinanced loan is always higher, unless the entire refinanced loan is nontaxable.

**Example**

Contribution Balance: $18,630
Previous Loan Balance: $8,760
New Loan Requested: $3,000

<table>
<thead>
<tr>
<th></th>
<th>Refinanced Loans</th>
<th>Multiple Loans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable Amount</td>
<td>$5,190</td>
<td>$0</td>
</tr>
<tr>
<td>Minimum Payroll Deduction (Repayment Amount)</td>
<td>$112</td>
<td>$236</td>
</tr>
</tbody>
</table>

In this example, if the member chooses to refinance, the taxable amount of the loan is greater than the loan requested. But, if the member chooses multiple loans, the new loan is not taxable.
**Cost-of-Living Adjustment**

Once you meet the eligibility requirements, including age and number of years retired, your retirement benefit will permanently increase each year. This adjustment, subject to pension caps and limitations, is 50 percent of the previous year’s annual rate of inflation, but never less than 1 percent or more than 3 percent of your benefit. The adjustment percentage is applied only to the first $18,000 of your Single Life Allowance, even if you selected a different option at retirement.

You will begin receiving cost-of-living adjustments (COLAs) when you are:

- Age 62 or older and retired for five or more years;
- Age 55 or older and retired for ten or more years (generally applies to members in special plans that allow for retirement, regardless of age, after a specific number of years); or
- Receiving a disability pension for five or more years.

When you die, if you selected an option that pays a lifetime benefit to your beneficiary, and the beneficiary is your spouse at the time of death, he or she will be eligible to receive half of the COLA amount you would have been entitled to receive.

**Divorce**

The New York State Court of Appeals has determined that retirement benefits are marital property and subject to equitable distribution. “Equitable distribution” is the division of marital assets between spouses after the marriage has ended. This division must be stated in the form of a Domestic Relations Order (DRO) if we are to pay a portion of your pension to your ex-spouse.
A DRO gives us specific direction on how your retirement benefits should be divided. However, it does not allow for a distribution of your pension until you actually retire, die or terminate membership.

If you are divorced, it is especially important to review your beneficiary designations to ensure your benefits will be distributed according to your wishes. Effective July 7, 2008, beneficiary designations for certain benefits are revoked when a divorce, annulment or judicial separation becomes final. An exception applies if the terms of a DRO specify otherwise. Beneficiary designations may be revoked for the Ordinary Death Benefit, Cash Refund Initial Value option (Tier 1), Cash Refund Contributions option (Tiers 1 & 2) and the Five and Ten Year Certain options. The Survivor Benefit beneficiary designations made by retirees who chose the Single Life Allowance option or certain alternative options may also be revoked.

For more information on how your pension benefits may be affected by divorce, consult your attorney, contact our Matrimonial Bureau, read our guide to Domestic Relations Orders and review our Divorce FAQs.
You are eligible for a vested retirement benefit if you leave public employment before age 55 and you have five or more years of credited service. This means that when you reach age 55, you will be entitled to a retirement benefit based on your service and the salary earned when you were an active member.

Under Article 15, if you retire between age 55 and 62 with less than 30 years of service credit, you will receive a reduced pension. With at least 30 years of service, or if you are 62 or older at retirement, there is no reduction in your pension.

This benefit is calculated the same way as your service retirement benefit. However, it cannot be less than the value of your accumulated contributions with interest. For an explanation of your benefit, please refer to Service Retirement Benefits.

The vested retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.
FILING

To receive your vested retirement benefit at the earliest possible date, file a retirement application within 90 days before your 55th birthday. If we receive your retirement application after your 55th birthday, your vested retirement will be effective the date the application is received.

Remember, it is up to you to file a retirement application when you become eligible and wish to receive your benefit.
OVERVIEW

If you become unable to perform your duties because of a permanent physical or mental incapacity, you may be eligible for a disability retirement benefit. There are a variety of disability benefits with different requirements. If you are eligible, applications for disability and regular service retirement benefits may be submitted simultaneously.

You must select an option for the payment of your disability benefits.

TIER 4 — ARTICLE 15
DISABILITY RETIREMENT BENEFIT

Eligibility

To qualify for this disability retirement benefit, you must have at least ten years of credited service, unless your disability results from an accident you sustain on the job. If your disability results from an on-the-job accident, not due to your own willful negligence, there is no minimum service requirement.

The Benefit

If approved, this is a benefit equal to the greater of:

- 1/60th (1.66 percent) of your FAS for each year of credited service; or
- 1/60th (1.66 percent) of your FAS for each year of credited service, plus 1/60th of your FAS for each year of service you might have earned before age 60, but not more than one-third of your FAS.
Example:
Member is age 57 with 19 years of service
Three possible years of additional service to age 60
FAS = $30,000

19 years × $30,000 ÷ 60 = $ 9,500
or
22 years (19 years + 3 additional) × $30,000 ÷ 60 = $ 11,000
Maximum benefit = 1/3 of FAS: 1/3 × $30,000 = $ 10,000

Benefit payable is $ 10,000

Example:
Member is age 57 with 12 years of service
Three possible additional years of service to age 60
FAS = $30,000

15 years (12 years + 3 additional) × $30,000 ÷ 60 = $ 7,500
Maximum benefit = 1/3 of FAS: 1/3 × $30,000 = $ 10,000

Benefit payable is $ 7,500

If your disability is the result of an on-the-job accident, the minimum benefit payable is at least one-third of your FAS.

If you are 60 or older at the effective date of your disability retirement and you have less than 20 years of credited service, your disability benefit would be equal to the benefit payable to you at the normal retirement age of 62, not to exceed one-third of your FAS.

If you are 60 or older at the effective date of your disability retirement and you have 20 or more years of credited service, your disability benefit would be equal to 1/60th (1.66 percent) of your FAS for each year of credited service.
You, your employer, or someone authorized with your power of attorney may file your Article 15 Disability Retirement Application (RS6340). The application must be filed while you are still on the payroll, or within:

- Three months of the last date you were paid on the payroll; or
- Twelve months after receiving notification of termination of employment, provided you were on an authorized medical leave of absence or receiving Workers’ Compensation or other similar employer-funded benefits.

**Tier 3 — Article 14 Ordinary Disability Retirement Benefit**

If you are a Tier 3 member, you may qualify for disability retirement benefits under either Article 14 or Article 15. The Article 15 benefit is usually greater than the disability retirement benefit you would receive under Article 14, as the Article 15 benefit is not offset by any Social Security disability or Workers’ Compensation benefits. However, to qualify for the Article 15 benefit, you must have at least ten years of service credit, unless you are found permanently disabled as a result of an on-the-job accident not caused by your own willful negligence.

**Eligibility**

You may be eligible for an Article 14 ordinary disability retirement benefit if you have accrued at least five years of service credit, and have been awarded primary Social Security disability benefits.
The Benefit
This is a pension equal to the greater of:

- One-third of your FAS; or
- Two percent of your FAS for each year of credited service, up to a maximum of 30 years.

This benefit is reduced by 50 percent of your CO-ESC Social Security disability benefit and by the amount of any Workers’ Compensation benefit that may be payable.

In addition, this benefit is subject to full escalation on the first day of the month following the date you become eligible for the disability benefit. “Full escalation” is the annual increase or decrease of your pension benefit based on the Consumer Price Index, or 3 percent, whichever is less. The percentage of escalation may rise or fall each April, and is calculated on the annual gross amount of the pension you received the previous fiscal year (April 1 – March 31).

Filing
You, your employer or someone authorized with your power of attorney may file your Article 14 Disability Retirement Application (RS6411). The application for ordinary disability retirement must be filed while you are still in active service. If you are no longer in active service, you may be eligible if your Social Security disability benefit is awarded retroactively to a time when you were in active service. When filing for this benefit, “active service” is defined as while you are:

- Being paid on the payroll;
- On an authorized medical leave of absence for up to two years (which may be extended for an additional two years); or
• Receiving Workers’ Compensation, or other similar employer-funded benefits for up to two years since last being paid on the payroll as long as you have not resigned or been terminated from employment while receiving those benefits.

**Tier 3 — Article 14 Accidental Disability Retirement Benefit**

**Eligibility**

You may be eligible for an Article 14 accidental disability retirement benefit if you are awarded primary Social Security disability benefits for a disability that is the natural and proximate result of an accident sustained in the performance of your duties, not caused by your own willful negligence.

**The Benefit**

The accidental disability retirement benefit is a pension equal to 2 percent of your FAS for each year of service credit you would have earned if you had been able to work until age 65 (not to exceed 30 years of service).

This benefit is reduced by 50 percent of your CO-ESC Social Security disability benefit and by the amount of your Workers’ Compensation benefit. In addition, this benefit is subject to full escalation on the first day of the month following the date you become eligible for the disability benefit. “Full escalation” is the annual increase or decrease of your pension benefit based on the Consumer Price Index, or 3 percent, whichever is less. The percentage of escalation may rise or fall each April, and is calculated on the annual gross amount of the pension you received the previous fiscal year (April 1 – March 31).
Filing

You, your employer or someone authorized with your power of attorney may file your Article 14 Disability Retirement Application (RS6411). The application for accidental disability retirement must be filed while you are still in active service. If you are no longer in active service, you may be eligible if your Social Security disability benefit is awarded retroactively to a time when you were in active service. When filing for this benefit, “active service” is defined as:

- Being paid on the payroll;
- On an authorized medical leave of absence for up to two years (which may be extended for an additional two years); or
- Receiving Workers’ Compensation, or other similar employer-funded benefits for up to two years since last being paid on the payroll as long as you have not resigned or been terminated from employment while receiving those benefits.

The award of this benefit is dependent on your being approved for the primary Social Security disability benefit. If you have not been awarded the primary Social Security disability benefit when we receive your application, we will hold it pending the Social Security Administration’s decision.
Death Benefits

ORDINARY DEATH BENEFIT

Your beneficiary may be entitled to an ordinary death benefit if you meet the eligibility requirements and your death is not attributable to an on-the-job accident. The first $50,000 of this benefit is paid in the form of group term life insurance, which is currently exempt from federal income tax. Your accumulated contributions are also payable to your beneficiary.

Eligibility

An ordinary death benefit may be payable to your designated beneficiary if you have completed at least one year of service since last joining the Retirement System and your death occurs:

- While you are on the payroll; or
- While you are on an authorized medical leave of absence without pay for up to two years (which may be extended for an additional two years); or
- While you are receiving Workers’ Compensation, or other employer-funded benefits, for up to two years following the last date you were paid on the payroll, provided your employment has not been terminated by resignation, employer action or any other means while receiving those benefits; or
- Within 12 months of the last date you were receiving salary, on an authorized medical leave of absence, or receiving Workers’ Compensation or other employer-funded benefits, provided you were not otherwise gainfully employed during that period.
Prior to Retirement

The death benefit is equal to your salary multiplied by your years of service, not to exceed three years of salary. For example, if you die after one year of service, your beneficiary would receive a benefit equal to one year of your salary; if you die after two years, your beneficiary would receive a benefit equal to two years of your salary; and if you die after three or more years of service, your beneficiary would receive a benefit equal to three years of your salary. The salary is limited by Section 130 of the Civil Service Law.

If you are in service at age 61, your death benefit will be reduced by 4 percent and will be further reduced by 4 percent each year you continue to be in service, up to age 70. It will not be reduced below 60 percent of the ordinary death benefit payable.

If you joined before January 1, 2001, chose a different death benefit, and die while in active service, your beneficiary will be paid the greater of the two death benefits.

If you are a vested member with at least ten years of credited service, have not retired and you die more than one year after leaving public employment, 50 percent of the death benefit may still be payable. This benefit is also payable if you die within one year of leaving covered service but were gainfully employed during that time.

After Retirement

There is a post-retirement death benefit if you:

- Retire directly from service; or
- Are a vested member and file for retirement within one year of leaving public employment in New York State.
The post-retirement death benefit is calculated at your retirement. During your first year of retirement, the benefit is 50 percent of the ordinary death benefit payable at retirement; during your second year of retirement, the benefit is 25 percent. During your third year and thereafter, the benefit will be 10 percent of the ordinary death benefit that would have been payable at age 60, if any, or at retirement, whichever was earlier.

**Example:**

**Retirement at age 62 with a salary of $30,000**

\[
\begin{align*}
30,000 \times 3 &= 90,000 \\
\text{(reduction for working until age 62)} &= -7,200 \\
\text{(ordinary death benefit at retirement)} &= 82,800 \\
\text{1st year of retirement (50 percent of ordinary death benefit)} &= 41,400 \\
\text{2nd year of retirement (25 percent of ordinary death benefit)} &= 20,700 \\
\text{After 2nd year of retirement (10 percent of benefit at age 60)} &= 9,000
\end{align*}
\]

**Filing**

Your family or employer should notify us of your death as soon as possible so we can send the appropriate forms to your beneficiary.

**TIER 4 — ARTICLE 15 ACCIDENTAL DEATH BENEFIT**

**Eligibility**

Regardless of your years of service credit, if you die as the natural and proximate result of an on-the-job accident, not due to your own willful negligence, an accidental death benefit may be paid on your behalf.
The Benefit

The Article 15 accidental death benefit is a pension equal to one-half (50 percent) of your salary during your last year of active service.

The benefit can only be paid to the following family beneficiaries, in this order:*

- To your surviving spouse, provided he/she has not renounced survivorship rights in a separation agreement, until remarriage; or
- To your surviving children, until they reach age 25; or
- To your dependent parent or parents, as determined under regulations established by the Comptroller; or
- To any other person who qualified as a dependent on your final federal income tax return for the year preceding death, until that person reaches age 21.

The benefit will be divided equally among the beneficiaries in any one category if you have more than one child, parent or other dependent.

If the total of all the accidental death benefit payments is not more than the amount of the ordinary death benefit, the difference will be paid to the last eligible beneficiary or beneficiaries. If none exist, the benefit will be paid to the executors of your will, or the persons who would be the executors if you die without making a will.

* All beneficiaries would be eligible for annual COLAs after receiving the accidental death benefit for five years.
**Filing**

The application for the Article 15 accidental death benefit must be filed within 60 days of your date of death. The head of the Retirement System may accept an application after 60 days, but only if an ordinary death benefit has not been paid. Your family or employer should notify us when you die so we can forward the appropriate forms to your beneficiary.

**Tier 3 — Article 14
Accidental Death Benefit**

**Eligibility**

Regardless of your years of service credit, if you die as the natural and proximate result of an on-the-job accident, not due to your own willful negligence, an accidental death benefit may be paid on your behalf.

**The Benefit**

This is a pension equal to one-half (50 percent) of your FAS. Each April, the benefit may change based on the amount of the increase or decrease in the Consumer Price Index, or by 3 percent, whichever is less. The benefit will never be reduced below the amount initially paid.

The benefit can only be paid to the following family beneficiaries, in this order:

- To your surviving spouse, provided he/she has not renounced survivorship rights in a separation agreement, until remarriage; or
- To your surviving children, until they reach age 25; or

*All beneficiaries would be eligible for annual COLAs after receiving the accidental death benefit for five years.*
• To your dependent parent or parents, as determined under regulations established by the Comptroller; or

• To any other person who qualified as a dependent on your final federal income tax return, or the return filed in the year immediately preceding the year of your death, until this person reaches age 21.

If the total of all the accidental death benefit payments is not more than the amount of the ordinary death benefit, the difference will be paid to the last eligible beneficiary or beneficiaries. If none exist, the benefit will be paid to the executors of your will, or the persons who would be the executors if you die without making a will.

Filing

The application for the Article 14 accidental death benefit must be filed within two years of your date of death. Your family or employer should notify us when you die so we can forward the appropriate forms to your beneficiary.
World Trade Center Presumption

If you participated in the World Trade Center rescue, recovery or clean up efforts, and you were a member of the Retirement System at that time, you should be aware of the benefits provided by the World Trade Center Presumption law.

- You may be eligible for an accidental disability retirement benefit if you become permanently disabled and unable to perform your job due to a qualifying condition.
- You may be eligible to reclassify your service or disability retirement benefit to an accidental disability retirement benefit if you develop a qualifying condition after you retire.
- Certain family beneficiaries may be eligible to receive an accidental death benefit if you die from a qualifying condition.

There are specific eligibility requirements and filing deadlines that must be met for these benefits. For more information, visit our World Trade Center Presumption page.
Receiving Your Benefits

**APPLYING FOR BENEFITS**

To apply for all Retirement System benefits, you must file the appropriate application form with the Office of the State Comptroller in a timely manner. Forms are available from our website, our Call Center or your employer. Specific filing instructions are detailed in each benefit description. If you need help, you can call or write us, or speak with an Information Representative at one of our consultation sites throughout New York State.

**Filing with the Office of the State Comptroller**

Many retirement benefit applications and other documents are required by law to be filed with the Office of the State Comptroller within specific time limits. For a form to be considered as “filed with the Comptroller,” it must be received by our Albany office, one of our consultation sites, or another office of the State Comptroller. **Giving your employer the form does not mean that you have “filed with the Comptroller.”**

As an alternative to visiting our offices to file these time-sensitive documents personally, you can fulfill the filing requirements by mailing the document to us. We will consider it filed when it is delivered to us by the Post Office. If you are concerned about meeting a filing deadline, you can mail the document via “Certified Mail — Return Receipt Requested.” When we receive the document, it will be considered as having been filed on the same date it was mailed.
To meet a filing deadline (such as an application for retirement benefits or an option election form), you can also send the document to us via fax. Although we will consider the form as filed on the date the transmission is received, you must still mail us the original document to continue the process and properly complete the filing requirement.

**Filing Multiple Applications**

Should you become ill or disabled and unable to perform your duties, depending on the circumstances, you may be eligible to file applications “without prejudice” for disability and regular service retirement benefits simultaneously. “Filed without prejudice” means we will process all filed applications and, if more than one benefit is approved, you will be given the opportunity to choose your pension from the approved benefits.

**CHALLENGING A DETERMINATION**

We can pay only those benefits authorized by law, and cannot pay you any benefits if you do not meet all the eligibility requirements established by law. If you believe that your benefit has been incorrectly denied or improperly calculated, you may request a hearing and redetermination to be held before a hearing officer.

Your request must be in writing and filed with the Hearing Administration Bureau within four months of the determination. We will send you an acknowledgment letter with an explanation of the hearing process when we receive your written request. If you have questions regarding the hearing process, please review our [Administrative Hearing FAQs](mailto:Hearings@osc.state.ny.us), email the Hearing Administration Bureau at Hearings@osc.state.ny.us or call us at 1-866-805-0990 or 518-474-7736 in the Albany, New York area.
How to Stay Informed

Your retirement benefits are an important part of a solid financial plan. They can help you and your beneficiaries achieve financial security in retirement or in the event of disability or death. Use these tips to help you understand your benefits and stay informed.

- Enroll in [Retirement Online](#), and access your personal retirement-related information quickly, easily and securely on our website.

- Sign up for [E-News](#), our free email newsletter, for the latest retirement news. It includes a special section dedicated to pre-retirement planning.

- Read the [member newsletters](#) we publish for current retirement information and updates on your benefits.

- Review your [Member Annual Statement](#) carefully and correct any errors quickly.

- Visit our website frequently to learn about your benefits, download forms, read informative booklets and brochures, and get tips on preparing for retirement.

- Attend a pre-retirement presentation to learn about the retirement process, find out what you can expect and discuss post-retirement issues. At your employer’s request, we offer these presentations designed for members within five years of retirement eligibility.

- Visit any of our [consultation sites](#) where you can meet with an Information Representative to discuss special concerns or request specific information.
• Notify us if your mailing address changes, so you can stay up-to-date about benefits. This is especially important if you leave public employment before you are eligible to retire.

• **Contact us** with any questions you have about your benefits.

**Email:** Visit our website at [www.osc.state.ny.us/retire](http://www.osc.state.ny.us/retire) and click on “Contact Us”

**Phone:** 1-866-805-0990 or 518-474-7736 if you live in the Albany, New York area

**Fax:** 518-402-4433 (Please include your name, retirement registration number, phone number and the person or department you wish to reach.)

**Mail:** New York State and Local Retirement System
110 State Street
Albany, NY 12244-0001
This publication describes benefits available to Tier 3 and 4 members provided by the Coordinated Retirement Plans (Articles 14 and 15) of the New York State Retirement and Social Security Law (RSSL) as enacted by the New York State Legislature. Although most Tier 3 members choose to retire under Article 15 because it provides a greater benefit for them, certain Article 14 benefits, available only to eligible Tier 3 members, are also described here. Members covered by a 20- or 25-year plan that allows retirement regardless of age should refer to the information that covers their special plan.

Throughout this publication, you will find references to “Sections” and “Articles” that refer to the RSSL. The New York State and Local Retirement System, headed by the Comptroller of the State of New York, administers this plan. Our main office is in Albany, New York.
This is a general summary of membership benefits, rights and responsibilities, and is not a substitute for any New York State or federal law. For specific information about your benefits, please contact us.

VO1522
Content Revised: 1/12
Printed: 1/12

© 2012, New York State and Local Employees’ Retirement System

Printed on recycled paper
your retirement plan
Tier 5 Employees’ Retirement System Members (Article 15)
As a member of the Retirement System, you are covered by a plan that provides important benefits. This presentation explains some of those benefits and the services available to you as a member of our system, including:

- Benefits you will receive at retirement if you meet the service and age requirements (service retirement benefits);
- Benefits you may receive if you become permanently disabled (disability retirement benefits);
- Benefits your beneficiary may receive if you die while working for a public employer or after you retire (death benefits);
- Benefits you may receive at a later date, even if you leave public service before you become eligible to retire (vested benefits).

I am joined by a staff of dedicated professionals in my commitment to helping you make informed decisions about your future. I encourage you to contact us with any questions or suggestions you might have.

Sincerely,

Thomas P. DiNapoli
State Comptroller
## Contents

- **About Your Membership** ................................................................. 3
- **Service Credit** ............................................................................... 6
- **Final Average Salary** ................................................................. 10
- **Service Retirement Benefits** ....................................................... 12
- **Choosing a Payment Option** ..................................................... 14
- **Items That May Affect Your Pension** ........................................ 16
- **Vested Retirement Benefit** ........................................................... 19
- **Disability Retirement Benefits** .................................................. 20
- **Death Benefits** ........................................................................... 22
- **Receiving Your Benefits** ............................................................ 27
- **How to Stay Informed** ................................................................. 29
- **About This Presentation** ............................................................... 30
About Your Membership

Retirement System Membership

Permanent, full-time employees of employers that participate in the New York State and Local Employees’ Retirement System must become members of the Retirement System.

Under any of the following four scenarios, however, membership is optional:
- You are appointed to a temporary or provisional position;
- You work less than 30 hours per week, or less than the standard number of hours for full-time employment as established by your employer for your position;
- Your job is supposed to last for less than one year, or you work on a less than 12 months per year basis;
- Your annual salary is less than New York State’s minimum wage, multiplied by 2,000 hours.

Tier Status

When you join the Retirement System, you are assigned to a tier based on your date of membership. Your tier determines:
- Your eligibility for service or disability retirement benefits;
- The formula used in the calculation of your benefits;
- Death benefit coverage;
- Service crediting; and
- Whether you must contribute toward your benefits.

If you joined the Employees’ Retirement System on or after January 1, 2010, you are a Tier 5 member.
CONTRIBUTING TOWARD YOUR RETIREMENT

You are required to contribute 3 percent of your gross earnings toward your retirement benefits for all your years of public service, unless you are a:

- Uniformed court officer and required to make 4 percent contributions;
- Peace officer employed by the Unified Court System and required to make 4 percent contributions; or
- State corrections officer and required to make 3 percent contributions for 30 years of service.

If you are employed by more than one participating employer, once you join the Retirement System, all salary and service earned in connection with all employment must be reported to this System, even if your membership is only mandatory with one.

Under Internal Revenue Code Section 414(h), as of July 1, 1989, your required contributions are tax-deferred until they are distributed to you. These contributions are reportable for federal income tax only when you withdraw or retire from the Retirement System. Therefore, contributions for Tier 5 members are:

- Not reported as wages for federal income tax;
- Reported as wages for New York State and local income taxes;
- Reported as wages for Social Security;
- Reported as wages to the New York State and Local Employees’ Retirement System, and used in the calculation of all benefits paid by the Retirement System; and
- Calculated on your full gross salary, before any salary reductions for any other tax-deferred plan.

BECOMING ELIGIBLE FOR A BENEFIT

Once you have ten years of credited service, you will be vested. This means you have earned the right to receive a retirement benefit, even if you leave public employment. Vesting is automatic — you do not have to fill out any paperwork or file an application.

As a vested member, you can leave public employment and, when you reach age 55, apply for and receive a vested retirement benefit. The amount of your vested benefit is based on your service, age at retirement and the salary you earned when you were an active member.
WITHDRAWING YOUR CONTRIBUTIONS AND/OR YOUR MEMBERSHIP

If you leave public employment with less than ten years of credited service, you may end your membership and withdraw your accumulated contributions (with interest compounded at 5 percent per year). To do this, you should file the Withdrawal Application (RS5014) no earlier than 15 days after you leave public employment.

Once you have ten or more years of service credit, you cannot withdraw from the Retirement System. Your contributions are required to remain in your account and you will qualify for a retirement benefit when you reach 55. It is up to you to apply for your retirement benefit at that time.

ENDING YOUR MEMBERSHIP

Once you join, there are only four ways your membership can end:

- If you leave public employment (paid service as an officer or employee with an employer that participates in the New York State and Local Retirement System) before you have ten years of credited service and voluntarily withdraw your contributions;
- When seven years have elapsed since you last worked in public employment, provided you do not have at least ten years of credited service;
- When you retire; or
- If you die.

“Public employment” means paid service as an officer or employee with an employer that participates in the New York State and Local Retirement System.
Service Credit

**Full-Time Employment**

If you join the Retirement System on the day you begin employment with a participating employer, we calculate your retirement service credit by subtracting your beginning date of employment from the date you actually leave paid employment as long as:

- You work on a full-time, continuous basis; and
- You earn at least the annual equivalent of New York State’s annual minimum wage for your full career in public service.

“Full-time” is defined by your employer, but must be at least six hours per day, for a five-day week.

Institutional teachers, teachers who work in schools for the deaf and blind, school district and Board of Cooperative Educational Services (BOCES) employees, certain New York State institutional teachers, and college employees in both classified and unclassified positions who work full-time for the school year will also receive full retirement service credit. School year refers to employment during the months of September through June.

**Part-Time Employment**

Part-time employment is credited as the lesser of:

- For all members: number of days reported ÷ 260 days or annual salary reported ÷ (State’s hourly minimum wage × 2,000)
  (except those noted below)

- For institutional teachers: number of days reported ÷ 200 days

- For non-institutional teachers: number of days reported ÷ 180 days
  (working at New York State schools for the deaf and blind, BOCES and school district employees)

- For college employees: number of days reported ÷ 170 days
LEAVES OF ABSENCE

Half credit is given for sick leave at half pay.

Since service is usually not credited for any period of time you do not receive a salary, credit is not given for:

- Leaves of absence without pay;
- Authorized, unpaid medical leaves of absence; or
- Unpaid leave under the federal Family and Medical Leave Act.

Workers’ Compensation

State employees will receive up to one year of service credit per incident while on Workers’ Compensation leave. Non-State employees will only receive credit for this time if their employer continues to pay them at least a portion of their salary, even if it is later reimbursed by the Workers’ Compensation carrier.

CREDIT FOR PREVIOUS OR MILITARY SERVICE

You may be able to obtain credit for your previous public employment. It is very important that you claim all the service you are entitled to receive as early as possible, because records documenting your previous service may become lost or destroyed with the passage of time.

Prior Service

This is any period of time you received salary from a participating employer before that employer elected to participate in the Retirement System. To receive this credit, you must earn at least two years of credited service as a Retirement System member.

Example:

You have been working for a municipality for six years and, as of January 1st of this year, the municipality began participating and you have joined the System. You can request credit for those six years but, for Tier 5 members, there would also be a cost.
Service Before Your Date of Membership
You may receive credit for working for a participating public employer in New York State before you joined the Retirement System. To obtain the credit, you must earn at least two years of credited service as a Retirement System member.

Example:
You worked at the town library while going to school and, as a part-time employee, you chose not to join the System. Now that you have graduated and taken a full-time job at the town supervisor’s office, you must join. You can choose to claim the part-time service, but there is a cost.

Military Service
You may be able to receive credit for some or all of your military service. To determine your eligibility and the cost, if any, please send us a copy of your Certificate of Release or Discharge from Active Duty (DD-214).

Service From a Previous Membership
If you previously were a member of this System, or another public retirement system in New York State, your service may be recredited and your date of membership and tier changed. If your previous membership was with another retirement system, please write to our Member & Employer Services Bureau. For reinstatement to Tier 1 or an earlier membership date within Tier 2, you must send us a completed Application to Reinstall a Former Tier 1 or 2 Membership (RS5506).

Payment for Service Credit
As a Tier 5 member, you will be required to pay for service currently not credited to you. There are two kinds of past service costs — mandatory and optional.

Mandatory costs are required for service you earned as a member but for which you made no (or insufficient) contributions.

Optional costs are payments you choose to make to purchase credit for a period of previous or military service. Once you have made payment and have accrued two years of service credit as a member, you can receive that credit. Before you purchase optional past service credit, though, you must pay for any outstanding mandatory costs.

Example of Mandatory Past Service Costs:
You joined the Retirement System on January 14, 2010, but your employer did not begin taking contributions from your paycheck until February 1, 2010. You would then need to make payments for January 14th through January 31st.
APPLYING FOR PREVIOUS OR MILITARY SERVICE CREDIT

To receive credit for any type of previous or military service, send a written request (which must be received before your effective date of retirement) to our Member & Employer Services Bureau. Please include as much information as you can about the period of employment for which you are seeking credit. We will determine your eligibility to receive the credit and any cost involved.

By requesting credit for your previous public employment as early in your career as possible:

- It will be less expensive than if you wait to purchase it at a later date; and
- Your retirement benefit will be processed more quickly if your service credit is in order.

If you are requesting previous service credit to establish eligibility for a vested retirement benefit, you should request credit while you are on the payroll of a participating employer. If you receive a cost after you leave the payroll, you must make payment within 30 days of notification. You can request credit once you are off the payroll, but you must pay the cost (if any) and return to the payroll of a participating employer for the service to be credited and to become vested.

**Please note, if your purchased service brings your total credited service to ten or more years, you will no longer be eligible to withdraw your contributions and end your membership.**

ADDITIONAL SERVICE CREDIT FOR SICK LEAVE (SECTION 41-j)

Your employer can choose to offer this benefit, which may increase your service credit by up to seven-and-one-half months (or more than nine months, depending on your position), provided you retire directly from public employment or within a year after separating from service. The additional credit is based on your unused, unpaid sick leave days at retirement. We calculate the credit at retirement by dividing the total unused, unpaid sick leave days, which cannot exceed 165 (200 days for some members), by 260. Contact your employer or refer to your Member Annual Statement to determine if this benefit is available to you.

Credit for your unused sick leave at retirement cannot be used to:

- Qualify for vesting. For example, if you have nine-and-one-half years of service credit and you need ten to be vested, your sick leave credit cannot be used to reach ten years.
- Qualify for a better retirement benefit calculation. For example, if you have 19 ½ years of service credit but your pension will improve substantially if you have 20 years, your sick leave credit cannot be used to reach the 20 years.
- Increase your pension beyond the maximum amount payable under your retirement plan.
- Meet the service credit requirement to retire in a special 20- or 25-year plan.
Final Average Salary

Your pension is based on your years of credited service and your final average salary (FAS). FAS is the average of the wages you earned during any 36 consecutive months of service when your earnings were highest. This is usually the last three years of employment.

If the earnings in any year included in the FAS period exceed the average of the previous two years of earnings by more than 10 percent, the amount in excess of 10 percent is excluded from the computation.

The calculation of your FAS can include, but is not limited to, the following types of payments. In some cases, certain restrictions may apply.

- Regular salary;
- Overtime up to the annual limit, if earned in the FAS period*;
- Holiday pay;
- Noncompensatory overtime earned in the FAS period*;
- Longevity payment (maximum of three) if earned in the FAS period; and
- Up to 30 days vacation, if the FAS is based on the 36 months immediately preceding retirement.

*Annual overtime pay in excess of $15,000 (calendar year 2010) cannot be used in the FAS calculation. This overtime pay limitation increases 3 percent annually.

<table>
<thead>
<tr>
<th>Year</th>
<th>Overtime Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>$15,000</td>
</tr>
<tr>
<td>2011</td>
<td>$15,450</td>
</tr>
<tr>
<td>2012</td>
<td>$15,914</td>
</tr>
<tr>
<td>2013</td>
<td>$16,391</td>
</tr>
<tr>
<td>2014</td>
<td>$16,883</td>
</tr>
<tr>
<td>2015</td>
<td>$17,389</td>
</tr>
<tr>
<td>2016</td>
<td>$17,911</td>
</tr>
<tr>
<td>2017</td>
<td>$18,448</td>
</tr>
<tr>
<td>2018</td>
<td>$19,002</td>
</tr>
<tr>
<td>2019</td>
<td>$19,572</td>
</tr>
</tbody>
</table>
The following types of payments are not considered regular compensation and will not be included in your FAS calculation:

- Unused sick leave;
- Payments made as a result of working your vacation;
- Any form of termination pay;
- Payments made in anticipation of retirement;
- Lump sum payments for deferred compensation; and
- Any payments made for time not worked.
Service Retirement Benefits

OVERVIEW

Eligibility
You will be eligible for a service retirement benefit when you reach age 62 and have ten or more years of credited service.

The Benefit
- If you retire with less than 20 years of service credit, your pension will equal 1/60th (1.66 percent) of your FAS for each year of service.
- With 20–30 years of service credit, your benefit will equal 1/50th (2 percent) of your FAS, multiplied by your years of credited service.
- For each year of credited service beyond 30 years, you will receive 3/200ths (1.5 percent) of your FAS.

Examples:

At age 62, with 19 years of service and an FAS of $35,000:

\[
\frac{19 \text{ yrs.} \times 35,000}{60} = \frac{655,000}{60} = 11,083 \text{ per year}
\]
\[
= \frac{11,083}{12} = 924 \text{ per month}
\]

At age 62, with 20 years of service and an FAS of $35,000:

\[
\frac{20 \text{ yrs.} \times 35,000}{50} = \frac{700,000}{50} = 14,000 \text{ per year}
\]
\[
= \frac{14,000}{12} = 1,167 \text{ per month}
\]

At age 62, with 31 years of service and an FAS of $35,000:

\[
\frac{30 \text{ yrs.} \times 35,000}{50} = \frac{1,050,000}{50} = 21,000 \text{ per year}
\]
\[
(1 \text{ yr.} \times 0.015) \times 35,000 = 525 \text{ per year}
\]
\[
= \frac{21,000}{12} = 1,794 \text{ per month}
\]

Filing
Your Application for Service Retirement (RS6037) must be on file with the Office of the State Comptroller at least 15 days but not more than 90 days before the date on which your retirement will occur. The 15-day filing requirements is waived if you are over age 70 at retirement.
Retiring Before Age 62

If you retire between the ages of 55 and 62, your benefit will be reduced unless you are a uniformed court officer or peace officer employed by the Unified Court System and have at least 30 years of credit. The percentage of the benefit reduction is prorated based on your exact age at retirement.

<table>
<thead>
<tr>
<th>Age at Retirement</th>
<th>Percentage of Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>38.33</td>
</tr>
<tr>
<td>56</td>
<td>33.33</td>
</tr>
<tr>
<td>57</td>
<td>28.33</td>
</tr>
<tr>
<td>58</td>
<td>23.33</td>
</tr>
<tr>
<td>59</td>
<td>18.33</td>
</tr>
<tr>
<td>60</td>
<td>13.33</td>
</tr>
<tr>
<td>61</td>
<td>6.67</td>
</tr>
</tbody>
</table>

It is important to know that once you retire with a reduced benefit, the reduction is permanent — it does not end when you turn 62.

Examples:

Retiring on your 55th birthday, with 19 years of service and an FAS of $35,000:

\[
\frac{19 \text{ yrs.} \times \$35,000}{60} = \$11,083 \text{ per year}
\]

\[-4,248 \text{ (38.33 percent benefit reduction)}
\]

\[\$6,835 \text{ per year}
\]

\[\$569 \text{ per month}
\]

Retiring on your 55th birthday, with 20 years of service and an FAS of $35,000:

\[
\frac{20 \text{ yrs.} \times \$35,000}{50} = \$14,000
\]

\[-5,366 \text{ (38.33 percent benefit reduction)}
\]

\[\$8,634 \text{ per year}
\]

\[\$719 \text{ per month}
\]
Choosing a Payment Option

**HOW YOU RECEIVE YOUR BENEFIT**

At retirement, you must decide how you want your retirement benefit paid. Any of the several options from which you may choose will provide you with a monthly benefit for life. You may elect the Single Life Allowance, which provides the maximum amount payable during your lifetime, with nothing payable to a beneficiary upon your death. Or, you may elect to receive a smaller monthly benefit to provide for a possible payment to a designated beneficiary after your death.

**FILING YOUR OPTION ELECTION**

You must file your Option Election form (unless notified otherwise, as in the case of disability retirement) before the first day of the month following your retirement date. You have up to 30 days after your pension benefit becomes payable to change your selection. If you are a disability retiree, you may change your option selection up to 30 days after your disability application is approved, or up to 30 days after your retirement date, whichever is later.

If your election is not timely, by law, we must process your retirement as if you had selected the Single Life Allowance (Option 0).

**AVAILABLE OPTIONS**

**Single Life Allowance (Option 0)**

This is the basic retirement benefit. It provides you with the maximum benefit each month for the rest of your life. Under this selection all payments cease upon your death. When you die (even if it is only one year, or soon, after retiring), nothing will be paid to any beneficiary.

**Joint Allowance — Full**

This option provides you with a reduced monthly benefit for your lifetime and is based on your and your beneficiary’s dates of birth. When you die, your beneficiary will receive the same monthly amount (without COLA) for life. If your beneficiary dies before you, all benefit payments will stop at your death.
Joint Allowance — Partial*

This option provides a reduced monthly benefit for your lifetime and is based on your and your beneficiary’s dates of birth. When you die, your beneficiary will receive a specific percentage of your benefit (without COLA) for life which you select, either 75, 50, or 25 percent. If your beneficiary dies before you, all payments will stop at your death.

Pop-Up/Joint Allowance — Full or Half*

These options provide a reduced monthly benefit for your lifetime. If you die before your beneficiary, we will continue paying the same monthly amount or one-half that amount (without COLA), depending on which option you elect, to your beneficiary for life. However, if your beneficiary dies first, your benefit will be increased to the amount you would have received if you had selected the Single Life Allowance at retirement, and all payments will stop at your death.

Five Year Certain and Ten Year Certain

These options provide a reduced monthly lifetime income for you with the additional guarantee that if you live for less than five years or ten years after retirement, depending upon which option you elect, payments in the same amount you were receiving (without COLA) will be made to your beneficiary for the balance of the five- or ten-year period. You may change your beneficiary within the five- or ten-year period. If you die after the five- or ten-year period, depending upon which option you select, all payments will stop at your death.

Alternative Options

If the options described here do not meet your with needs, we will consider written requests for other payment methods. These requests must be outlined in detail by you and then approved by us for legal and actuarial soundness.

* If you elect this option, you must submit proof of your beneficiary’s birth date. You can designate only one beneficiary and you cannot change your designation after your retirement. If your beneficiary is your spouse at the time of your death, he or she will be eligible for 50 percent of your COLA.

Learn more about COLA.
Items That May Affect Your Pension

**IRS Pension Limitation**

The Internal Revenue Code limits the amount of salary that qualified pension plans, including the New York State and Local Retirement System, may use in calculating benefits. Section 401(a)(17) affects members who join on or after April 1, 1996, and currently excludes earnings over $245,000 (effective April 1, 2010) in the State's fiscal year (April 1st – March 31st). The amount is set by federal law and is periodically adjusted for inflation.

**Borrowing Against Your Contributions**

If you are in active service, with at least one year of member service credit, you may take a loan from the Retirement System.

However, before you apply, you should be aware of the federal tax laws pertaining to Retirement System loans. **Your loan will be taxable if:**

- The loan amount exceeds federal limits.
- You have a loan with a deferred compensation (457) or tax-sheltered annuity (403-b) plan through your current employer. We must take that loan balance into consideration when we calculate the taxability of your Retirement System loan. This could cause your loan to exceed the federal limits and result in significant tax consequences for you.
- You do not make payments on your loan at least once every three months or do not complete payment within five years from the date the loan was issued.
- You retire or withdraw from the Retirement System and have one or more outstanding loan balances when you retire or withdraw.

If your loan is taxable, or becomes taxable as described above, you must include it on your federal income tax return for the year the loan is granted or becomes taxable. If you are under 59 ½ at the time, you may be required to pay a 10 percent penalty tax in addition to any ordinary federal income tax you owe. Please consider consulting a tax advisor before applying for a taxable loan from the Retirement System.

The following rules apply when borrowing against your contributions:

- Each loan must be for a minimum of $1,000, so you must have an account balance of at least $1,334. The total of all your loans may not be more than 75 percent of your contributions.
• You must repay each outstanding loan through payroll deductions in an amount sufficient to repay the loan, interest and insurance premium within five years. The minimum deduction to repay your outstanding loan balances must be at least 2 percent of your salary.
• You may borrow only once in any 12-month period.
• Prior to retirement, and 30 days after issuance, loans are fully insured in case you die before repaying them.

Please note: Any outstanding loan balance when you retire will **permanently reduce** your pension. You cannot pay off your loan once you retire. The amount of your pension reduction will be based on your age, the loan balance at retirement, and type of retirement (regular service or disability).

These are examples of how your service retirement benefit will be permanently reduced by an outstanding loan balance at retirement. The approximate reductions are for calendar year 2010. The amount of the reduction changes annually.

<table>
<thead>
<tr>
<th>Age at Retirement</th>
<th>Outstanding Loan Balance</th>
<th>Annual Pension Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>$5,000</td>
<td>$334</td>
</tr>
<tr>
<td></td>
<td>$10,000</td>
<td>$667</td>
</tr>
<tr>
<td>62</td>
<td>$5,000</td>
<td>$378</td>
</tr>
<tr>
<td></td>
<td>$10,000</td>
<td>$757</td>
</tr>
</tbody>
</table>

If you already have an outstanding Retirement System loan and want to take a new loan, please contact our Call Center and connect with our automated information line to determine if refinancing your current loan or carrying multiple loans would be better for you. Although your payment may be larger if you choose multiple loans, you may reduce or eliminate your tax liability.

**Example**

| Contribution Balance: | $18,630 |
| Previous Loan Balance: | $8,760 |
| New Loan Requested:   | $3,000  |

<table>
<thead>
<tr>
<th></th>
<th>Refinanced Loans</th>
<th>Multiple Loans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable Amount</td>
<td>$5,190</td>
<td>$0</td>
</tr>
<tr>
<td>Minimum Payroll Deduction (Repayment Amount)</td>
<td>$112</td>
<td>$236</td>
</tr>
</tbody>
</table>

In this example, if the member chooses to refinance, the taxable amount of the loan is greater than the loan requested. But, if the member chooses multiple loans, the new loan is not taxable.
Cost-of-Living Adjustments (COLA)

Once you meet the eligibility requirements, including age and number of years retired, your retirement benefit will permanently increase each year. You will begin receiving COLA when you are:

- 62 or older and retired for five or more years; or
- 55 or older and retired for ten or more years (generally applies to members in special plans that allow for retirement, regardless of age, after a specific number of years); or
- Receiving a disability pension for five or more years.

When you die, if you selected an option that pays a lifetime benefit to your beneficiary, and the beneficiary is your spouse at the time of death, he or she will be eligible to receive half of the COLA amount you would have been entitled to receive.

Divorce

The New York State Court of Appeals determined that retirement benefits are marital property and are subject to the equitable distribution. This division must be stated in the form of a Domestic Relations Order (DRO) if we are to pay a portion of your pension to your ex-spouse. A DRO gives us specific direction on how your retirement benefits should be divided. However, it does not allow for a distribution of your pension until you actually retire, die or terminate membership.

If you are divorced, it is especially important to review your beneficiary designations to ensure your benefits will be distributed according to your wishes. Effective July 7, 2008, beneficiary designations for certain benefits are revoked when a divorce, annulment or judicial separation becomes final. An exception is if the terms of a DRO specify otherwise. Beneficiary designations may be revoked for the Ordinary Death Benefit, Cash Refund Initial Value option (Tier 1), Cash Refund Contribution option (Tiers 1 and 2) and Five and Ten Year Certain options. Survivor Benefit beneficiaries for retirees who chose the Single Life Allowance option or certain alternative options may also be revoked.

For more information on how your pension benefits can be affected by divorce, consult your attorney, contact our Matrimonial Bureau or read our guide to Domestic Relations Orders and review our Divorce FAQs.
Vested Retirement Benefit

**Eligibility**

You are eligible for a vested retirement benefit if you leave public employment before age 55 and you have ten or more years of credited service. This means that when you reach age 55, you will be entitled to a pension based on your service and the salary earned when you were an active member.

Your full vested benefit is payable at age 62, but you can choose to retire as early as age 55. With the exception of uniformed court officers or peace officers employed by the Uniformed Court System, if you choose to retire prior to 62, your benefit will be permanently reduced. Uniformed court officers or peace officers employed by the Uniformed Court System can retire prior to 62 without a reduction for early retirement if they have 30 years of service credit.

**Your Vested Benefit**

This benefit is calculated the same way as your service retirement benefit. However, it cannot be less than the value of your accumulated contributions with interest. For an explanation of your benefit, please refer to Service Retirement Benefits.

Your pension is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

**Filing**

To receive your vested pension at the earliest possible date, file a retirement application no earlier than 90 days before your 55th birthday. If we receive your retirement application after your 55th birthday, your vested retirement is effective the date the application is received.

**Remember, it is up to you to file a retirement application when you become eligible and wish to receive your benefit.**
Disability Retirement Benefits

OVERVIEW

If you become unable to perform your duties because of a permanent physical or mental incapacity, you may be eligible for a disability retirement benefit. There are a variety of disability benefits with different requirements. If you are eligible, you may simultaneously submit applications for disability and regular service retirement benefits.

You must select an option for the payment of your disability benefits.

ARTICLE 15 DISABILITY RETIREMENT BENEFIT

Eligibility

To qualify for this disability retirement benefit, you need ten years of credited service, unless your disability results from an accident you sustain on the job. If your disability results from an on-the-job accident, not due to your own negligence, there is no minimum service requirement.

The Benefit

If approved, this is a benefit equal to the greater of:

- 1/60th (1.66 percent) of your FAS for each year of credited service or
- 1/60th (1.66 percent) of your FAS for each year of credited service, plus 1/60th of your FAS for each year of service you might have earned before age 60, but not more than 1/3 of your FAS.

Example:

Member is age 57 with 19 years of service
Three possible years of additional service to age 60
FAS = $30,000

\[
\text{Benefit payable is } \frac{19 \text{ yrs. } \times \$30,000}{60} = \$9,500 \\
\text{or } \frac{22 \text{ yrs.} \times (19 \text{ yrs.} + 3 \text{ additional}) \times \$30,000}{60} = \$11,000 \\
\text{Maximum benefit } = \frac{1}{3} \times \text{FAS} = \frac{1}{3} \times \$30,000 = \$10,000
\]

Benefit payable is \$10,000
Example:
Member is age 57 with 12 years of service
Three possible additional years of service to age 60
FAS = $30,000

\[
\begin{align*}
15 \text{ yrs. (12 yrs. + 3 additional)} \times $30,000 \div 60 &= $7,500 \\
\text{Maximum benefit = } 1/3 \text{ of FAS: } 1/3 \times $30,000 &= $10,000 \\
\text{Benefit payable is} &= $7,500
\end{align*}
\]

If your disability is a result of an on-the-job accident, the benefit payable is at least 1/3 of your FAS.

If you are 60 or older at the effective date of your disability retirement and you have less than 20 years of credited service, your disability benefit would be equal to the benefit payable to you at the normal retirement age of 62, not to exceed 1/3 of your FAS.

If you are 60 or older at the effective date of your disability retirement and you have 20 or more years of credited service, your disability benefit would be equal to 1/60th (1.66 percent) of your FAS for each year of credited service.

Filing
You, your employer, or someone authorized with your power of attorney may file your Article 15 Disability Retirement Application (RS6340). The power of attorney is a legal document that gives authority to another person to make financial and other legal decisions on your behalf. The application must be filed while you are on the payroll or within:

- Three months of the last date you were paid on the payroll; or
- 12 months after receiving notification of termination of employment, provided you were on an authorized medical leave of absence or receiving Workers’ Compensation benefits.
Death Benefits

ORDINARY DEATH BENEFIT

Eligibility
An ordinary death benefit may be payable to your designated beneficiary if you have completed at least one year of service since last joining the Retirement System and your death occurs:

- While you are on the payroll; or

- While you are on an authorized medical leave of absence without pay for up to two years (which may be extended for an additional two years); or

- While you are receiving Workers’ Compensation, or other similar employer-funded benefits, for up to two years (which may be extended for an additional two years) following the last date you were paid on the payroll, provided your employment has not been terminated by resignation, employer action or any other means while receiving those benefits; or

- Within 12 months of the last date you were receiving salary, on an authorized medical leave of absence, or receiving Workers’ Compensation or other employer-funded benefits, provided you were not otherwise gainfully employed during that period.
The Benefit

Your death benefit is equal to your salary multiplied by your years of service, not to exceed three years of salary. That means that after one year of service, your beneficiary will receive one times your salary; after two years of service, two times your salary. After three or more years, the benefit is three times your salary. The salary is limited by Section 130 of the Civil Service Law.

Example:

$30,000 earned in last year (assuming your salary stays the same)

After 1 year of service = $ 30,000
After 2 years of service = $ 60,000
After 3 or more years of service = $ 90,000

For members working beyond age 60, the death benefit that would have been payable if you died at age 60 will be reduced by 4 percent each year that you stay in public employment, for a maximum of a 40 percent reduction.

Using the Example Above:

At age 60, a member was eligible for a $90,000 death benefit. If the member dies while still employed, his or her beneficiary would receive:

<table>
<thead>
<tr>
<th>Age</th>
<th>Maximum Percent Payable</th>
<th>Death Benefit Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>60</td>
<td>100</td>
<td>$90,000</td>
</tr>
<tr>
<td>61</td>
<td>96</td>
<td>$86,400</td>
</tr>
<tr>
<td>62</td>
<td>92</td>
<td>$82,800</td>
</tr>
<tr>
<td>63</td>
<td>88</td>
<td>$79,200</td>
</tr>
<tr>
<td>64</td>
<td>84</td>
<td>$75,600</td>
</tr>
<tr>
<td>65</td>
<td>80</td>
<td>$72,000</td>
</tr>
<tr>
<td>66</td>
<td>76</td>
<td>$68,400</td>
</tr>
<tr>
<td>67</td>
<td>72</td>
<td>$64,800</td>
</tr>
<tr>
<td>68</td>
<td>68</td>
<td>$61,200</td>
</tr>
<tr>
<td>69</td>
<td>64</td>
<td>$57,600</td>
</tr>
<tr>
<td>70 &amp; older</td>
<td>60</td>
<td>$54,000</td>
</tr>
</tbody>
</table>

Filing

Your family or employer should notify us of your death as soon as possible and we will send the appropriate forms to your beneficiary.
**POST-RETIREMENT DEATH BENEFIT**

Your beneficiary may be eligible to receive a post-retirement death benefit if you:

- Retire directly from service; or
- Are a vested member and your date of retirement is within one year of leaving public employment in New York State.

The post-retirement death benefit is calculated at your retirement. During your first year of retirement, the benefit is 50 percent of the ordinary death benefit payable at retirement; during your second year of retirement, the benefit is 25 percent. During your third year and thereafter, the benefit will be 10 percent of the ordinary death benefit that would have been payable at age 60, if any, or at retirement, whichever was earlier.

**Example:**

Age at Retirement = 62
Salary = $30,000

\[
\begin{align*}
\$30,000 \times 3 &= \$90,000 \\
\text{Reduction for working until age 62} &= \$7,200 \\
\text{Ordinary Death Benefit at Retirement} &= \$82,800
\end{align*}
\]

- **1st year of retirement**
  (50 percent of ordinary death benefit): $41,400
- **2nd year of retirement**
  (25 percent of ordinary death benefit): $20,700
- **After 2nd year of retirement**
  (10 percent of benefit at age 60): $9,000

Effective May 9, 2008, if you were age 60 or older when you joined the Retirement System, the post-retirement death benefit payable after your second year of retirement will be 10 percent of your last year’s salary times your years of member service credit, up to three years.

**For example, with a last year’s salary of $30,000:**

- If you have one year of member service: $30,000 \times 10\% = $3,000;
- If you have two years of member service: $30,000 \times 10\% \times 2 = $6,000;
- If you have three or more years of member service: $30,000 \times 10\% \times 3 = $9,000.
Out-of-Service Death Benefit

If you are a vested member with at least ten years of credited service and you die more than one year after leaving public employment, 50 percent of the death benefit may still be payable. This benefit is also payable if you die within one year of leaving covered service, but were gainfully employed during that time.

Filing

Your family or employer should notify us of your death as soon as possible and we will send the appropriate forms to your beneficiary.

Accidental Death Benefit

Eligibility

Regardless of your years of service credit, if you die as the natural and proximate result of an on-the-job accident, not due to your own willful negligence, an accidental death benefit may be paid on your behalf.

The Benefit

This is a pension equal to one-half (50 percent) of your wages during your last year of active service and is paid to your beneficiaries, in this order:

- To your surviving spouse, provided he/she has not renounced survivorship rights in a separation agreement, until remarriage; or
- To your surviving children, until they reach age 25; or
- To your dependent parent or parents, as determined under regulations established by the Comptroller; or
- To any other person who qualified as a dependent on your final federal income tax return for the year preceding death, until that person reaches age 21.

The benefit will be divided equally among the beneficiaries in any one category if you have more than one child, parent or other dependent.

If the total of all the accidental death benefit payments is not more than the amount of the ordinary death benefit, the difference will be paid to the last eligible beneficiary or beneficiaries. If none exist, the benefit will be paid to the executors of your will, or the persons who would be the executors if you die without making a will.
Filing

The application for the accidental death benefit must be filed within 60 days of your date of death. The head of the Retirement System may accept an application after 60 days, but only if an ordinary death benefit has not been paid. Your family or employer should notify us when you die and we will forward the appropriate forms to your beneficiary.
Receiving Your Benefits

**APPLYING FOR BENEFITS**

To apply for Retirement System benefits, you must file the appropriate application form with the Office of the State Comptroller in a timely manner. Forms are available from our website, our Call Center or your employer. Specific filing instructions are detailed in each benefit description. If you need help, you can call or write us, or speak with an Information Representative at one of our 16 consultation sites throughout New York State.

**Filing with the Office of the State Comptroller**

Many retirement benefit applications and other documents are required by law to be filed with the Office of the State Comptroller within specific time limits. For a form to be considered as “filed with the Comptroller,” it must be received by one of our consultation sites, or another office of the State Comptroller. *Giving your employer the form does not mean that you have “filed with the Comptroller.”*

As an alternative to visiting our offices to file these time-sensitive documents personally, you can fulfill the filing requirements by mailing the document to us. We will consider it filed when it is delivered to us by the Post Office. If you are concerned about meeting a filing deadline, you can mail the document via “Certified Mail — Return Receipt Requested.” When we receive the document, it will be considered as having been filed on the same date it was mailed.

To meet a filing deadline (such as an application for retirement benefits or an option election form), you can also send the document to us via fax. Although we will consider the form as filed on the date the transmission is received, you must still mail us the original document to continue the process and properly complete the filing requirement.

**Filing Multiple Applications**

Should you become ill or disabled and unable to perform your duties, depending on the circumstances, you may be eligible to simultaneously file applications “without prejudice” for disability and regular service retirement benefits. “Filed without prejudice” means we will process all filed applications and, if more than one benefit is approved, you will be given the opportunity to choose your pension from the approved benefits.
**CHALLENGING A DETERMINATION**

We can pay only those benefits authorized by law, and cannot pay you any benefits if you do not meet all the eligibility requirements established by law. If you believe that your benefit has been incorrectly denied or improperly calculated, you may request a hearing and redetermination to be held before a hearing officer.

Your request must be in writing and directed to the Hearing Administration Bureau within four months of the determination. We will send you an acknowledgement letter and an explanation of the hearing process when we receive your written request. If you have questions regarding the hearing process, please email our Hearing Administration Bureau at Hearings@osc.state.ny.us or call us at 1-866-805-0990 or 518-474-7736 in the Albany, New York area.
How to Stay Informed

Your retirement benefits are an important part of a solid financial plan. They can help you and your beneficiaries achieve financial security in retirement or in the event of disability or death. Use these tips to help you understand your benefits and stay informed.

- Enroll in Retirement Online and access your personal retirement-related information quickly, easily and securely on our website.
- Sign up for E-News, our free email newsletter, for the latest retirement news. It includes a special section dedicated to pre-retirement planning.
- Read the member newsletters we publish for current retirement information and updates on your benefits.
- Review your Member Annual Statement carefully and correct any errors quickly.
- Visit our website frequently to learn about your benefits, download forms, read informative booklets and brochures, and get tips on preparing for retirement.
- Attend a pre-retirement presentation to learn about the retirement process, know what you can expect and discuss post-retirement issues. At your employer’s request, we offer these presentations designed for members within five years of retirement eligibility.
- Visit any of our 16 consultation sites where you can meet with an Information Representative to discuss special concerns or request specific information.
- Update your mailing address if it changes, so you can stay up-to-date about benefits. This is especially important if you leave public employment before you are eligible to retire.
- Contact us with any questions you have about your benefits.
About This Presentation

This presentation describes the benefits available to Tier 5 members provided by the Coordinated Retirement Plans (Article 15) of the New York State Retirement and Social Security Law (RSSL) as amended by Chapter 504, Laws of 2009. Throughout this presentation, you will find references to “Sections” and “Articles” that refer to the RSSL.

The New York State and Local Retirement System, headed by the Comptroller of the State of New York, administers this plan. Our main office is in Albany, New York.
your retirement plan
For ERS Tier 6 Members
(Article 15)
As a member of the Retirement System, you are covered by a plan that provides important benefits. This publication explains some of those benefits and the services available to you as a member of our system, including:

- Benefits you will receive at retirement if you meet the service and age requirements (service retirement benefits);
- Benefits you may receive if you become permanently disabled (disability retirement benefits);
- Benefits your beneficiary may receive if you die while working for a public employer or, if eligible, after you leave public employment (death benefits); and
- Benefits you may receive at a later date, even if you leave public service before you become eligible to retire (vested benefits).

I am joined by a staff of dedicated professionals in my commitment to helping you make informed decisions about your future. I encourage you to contact us with any questions or suggestions you might have.

Sincerely,

[Signature]

Thomas P. DiNapoli
State Comptroller
## Contents

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>About Your Membership</td>
<td>3</td>
</tr>
<tr>
<td>Service Credit</td>
<td>6</td>
</tr>
<tr>
<td>Final Average Salary (FAS)</td>
<td>11</td>
</tr>
<tr>
<td>Service Retirement Benefit</td>
<td>12</td>
</tr>
<tr>
<td>Choosing a Payment Option</td>
<td>15</td>
</tr>
<tr>
<td>Items That May Affect Your Pension</td>
<td>17</td>
</tr>
<tr>
<td>Vested Retirement Benefit</td>
<td>20</td>
</tr>
<tr>
<td>Disability Retirement Benefits</td>
<td>21</td>
</tr>
<tr>
<td>Death Benefits</td>
<td>23</td>
</tr>
<tr>
<td>Receiving Your Benefits</td>
<td>27</td>
</tr>
<tr>
<td>How to Stay Informed</td>
<td>29</td>
</tr>
<tr>
<td>About This Presentation</td>
<td>30</td>
</tr>
</tbody>
</table>
About Your Membership

**Retirement System Membership**

Permanent, full-time employees of employers that participate in the New York State and Local Employees’ Retirement System must become members of the Retirement System.

Under any of the following four scenarios, however, membership is optional:

- You are appointed to a temporary or provisional position;
- You work less than 30 hours per week, or less than the standard number of hours for full-time employment as established by your employer for your position;
- Your job is supposed to last for less than one year, or you work on a less than 12 months per year basis; or
- Your annual wage is less than New York State’s minimum wage, multiplied by 2,000 hours.

When you become a Retirement System member, you must complete and file a membership application with the Office of the State Comptroller.

**Tier Status**

When you join the Retirement System, you are assigned to a tier based on your date of membership. Your tier determines:

- Your eligibility for service or disability retirement benefits;
- The formula used in the calculation of your benefits;
- Death benefit coverage;
- Service crediting; and
- Whether you must contribute toward your benefits.

If you joined the Employees’ Retirement System on or after April 1, 2012, you are in Tier 6.
**Contributing Toward Your Retirement**

You are required to contribute 3 percent of your gross earnings (4 percent for uniformed peace officers and court officers employed by the Unified Court System) toward your retirement benefits during the fiscal year 2012-13. Beginning April 1, 2013, you are required to contribute a specific percentage of your gross earnings, as shown below, for all your years of public service after your date of membership.

<table>
<thead>
<tr>
<th>Wages</th>
<th>Contribution Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $45,000</td>
<td>3%</td>
</tr>
<tr>
<td>$45,000.01 to $55,000</td>
<td>3.5%</td>
</tr>
<tr>
<td>$55,000.01 to $75,000</td>
<td>4.5%</td>
</tr>
<tr>
<td>$75,000.01 to $100,000</td>
<td>5.75%</td>
</tr>
<tr>
<td>Over $100,000</td>
<td>6%</td>
</tr>
</tbody>
</table>

If you are employed by more than one participating employer, once you join the Retirement System, all salary and service earned in connection with this employment must be reported to this System, even if your membership is only mandatory with one employer.

Under Internal Revenue Code Section 414(h), your required contributions are tax-deferred until they are distributed to you. These contributions are reportable for federal income tax only when you withdraw or retire from the Retirement System. Therefore, contributions for Tier 6 members are:

- Not reported as wages for federal income tax;
- Reported as wages for New York State and local income taxes;
- Reported as wages for Social Security;
- Reported as wages to the New York State and Local Employees’ Retirement System, and used in the calculation of all benefits paid by the Retirement System; and
- Calculated on your full gross salary, before any salary reductions for any other tax-deferred plan.
BECOMING ELIGIBLE FOR A BENEFIT

Once you have ten years of credited service, you will be vested. This means you have earned the right to receive a retirement benefit, even if you leave public employment.

As a vested member, you can leave public employment and, when you reach age 55, apply for and receive a vested retirement benefit. The amount of your vested benefit is based on your service, age at retirement and the salary you earned when you were an active member.

Vesting is automatic — you do not have to fill out any paperwork or file an application to become vested. However, you will need to file an application to begin receiving your vested benefit.

WITHDRAWING YOUR CONTRIBUTIONS AND/OR YOUR MEMBERSHIP

If you leave public employment with less than ten years of credited service, you may end your membership and withdraw your accumulated contributions (with interest compounded at 5 percent per year). To do this, you should file the Withdrawal Application (RS5014) no earlier than 15 days after you leave public employment.

Once you have ten or more years of service credit, you cannot withdraw from the Retirement System. Your contributions are required to remain in your account and you will qualify for a retirement benefit when you reach 55. It is up to you to apply for your retirement benefit at that time.

ENDING YOUR MEMBERSHIP

Once you join, there are five ways your membership can end:

- If you do not have at least ten years of credited service and seven years have elapsed since you last worked in public employment;
- If you leave public employment before you have ten years of credited service and voluntarily withdraw your contributions;
- If you transfer your membership to another New York State public retirement system;
- If you retire; or
- If you die.

“Public employment” means paid service as an officer or employee with an employer that participates in the New York State and Local Retirement System.
Service Credit

FULL- AND PART-TIME SERVICE CREDIT

Full-Time Employment
If you join the Retirement System on the day you begin employment with a participating employer, we calculate your retirement service credit by subtracting your beginning date of employment from the date you actually leave paid employment as long as:

- You work on a full-time continuous basis; and
- You earn at least the equivalent of New York State’s annual minimum wage for your full career in public service.

“Full-time” is defined by your employer, but must be at least six hours per day, for a five-day week.

Institutional teachers, teachers who work in schools for the deaf and blind, school district and Board of Cooperative Educational Services (BOCES) employees and college employees in both classified and unclassified positions who work full-time for the school year receive a full year of retirement service credit. “School year” refers to employment during the months of September through June.

Part-Time Employment
Part-time employment, except as noted below, is credited as the lesser of:

\[
\frac{\text{number of days worked}}{260} \quad \text{or} \quad \frac{\text{annual wages reported}}{(\text{State's hourly minimum wage} \times 2,000)}
\]

For institutional teachers:

\[
\frac{\text{number of days worked}}{200}
\]

For teachers working at New York State schools for the deaf and blind, BOCES and school district employees:

\[
\frac{\text{number of days worked}}{180}
\]

For college employees:

\[
\frac{\text{number of days worked}}{170}
\]

Employers report your days worked and salary to us.
LEAVES OF ABSENCE

Half credit is given for sick leave at half pay.

Since service is usually not credited for any period of time you do not receive a salary, credit is not given for:

- Leaves of absence without pay;
- Authorized, unpaid medical leaves of absence; or
- Unpaid leave under the federal Family and Medical Leave Act.

Workers’ Compensation

State employees will receive up to one year of service credit per incident while on Workers’ Compensation leave. Non-State employees may be able to receive credit for some or all of your Workers’ Compensation leave. To determine your eligibility and the cost (if any), please send a request to the Retirement System for review.

CREDIT FOR PREVIOUS OR MILITARY SERVICE

You may be able to obtain credit for your previous public employment or military service. It is very important that you claim all the service credit you are entitled to receive as early as possible, because records documenting your previous service may be lost or destroyed with the passage of time.

Prior Service

Prior service is any period of time you received salary from a participating employer before that employer elected to participate in the Retirement System. To receive credit for this service, you must earn at least two years of credited service as a Retirement System member.

Example:

You worked for a municipality for six years before that municipality began participating, and now you have joined the System. You can request credit for those six years, but there would be a cost.
Service Before Your Date of Membership

You may receive credit for working for a participating public employer before you joined the Retirement System. To obtain the credit, you must earn at least two years of credited service as a Retirement System member.

Example:
You worked at the town library while going to school and, as a part-time employee, you chose not to join the System. When you have graduated and took a full-time job at the town supervisor’s office, you were required to join. You can choose to claim the part-time service, but there is a cost.

Military Service

You may be able to receive credit for some or all of your military service. To determine your eligibility and the cost, if any, please send us a copy of your Certificate of Release or Discharge from Active Duty (DD-214).

Service From a Previous Membership

If you previously were a member of this System, or another public retirement system in New York State, your service may be recredited and your date of membership and tier restored. However, an earlier tier of membership does not always result in a better benefit. Please review your options carefully before making your decision, and contact us with any questions you may have. We will initiate reinstatement to Tiers 3, 4, 5, or an earlier date within Tier 6 by sending you information about your eligibility and giving you the opportunity to purchase credit for your withdrawn service.

If your previous membership was with another retirement system, please write to our Member & Employer Services Bureau. For reinstatement to Tier 1 or Tier 2, you must send us a completed Application to Reinstate a Former Tier 1 or 2 Membership (RS5506).

Payment for Service Credit

As a Tier 6 member, you will be required to pay for service currently not credited to you. There are two kinds of past service costs — mandatory and optional.

Mandatory costs are required for service you earned as a member but for which you made no (or insufficient) contributions. You are required to pay the cost for such service at the rate you would have been assessed had you made timely contributions plus any interest accrued. (See Contributing Toward Your Retirement.)
**Example of Mandatory Past Service Costs:**
You joined the Retirement System on May 14, 2012, but your employer did not begin taking contributions from your paycheck until July 1, 2012. You would then need to make payments for May 14th through June 30th plus any interest accrued.

Optional costs are payments you choose to make to purchase credit for a period of previous or military service. To receive credit for your previous or military service, you must pay 6 percent of the salary you earned during that time period. Once you have made payment and have accrued two years of service credit as a member, you can receive that credit. Before you purchase optional past service credit, you must pay for any outstanding mandatory costs.

**APPLYING FOR PREVIOUS OR MILITARY SERVICE CREDIT**

To receive credit for any type of previous or military service, send a written request (which must be received before your effective date of retirement) to our Member & Employer Services Bureau. Please include as much information as you can about the period of employment for which you are seeking credit. We will determine your eligibility to receive the credit and any cost involved.

If you request credit for your previous public employment as early in your career as possible:
- The credit will be less expensive than if you wait to purchase it at a later date.
- Your retirement benefit will be processed more quickly because your service credit is in order.
- Records we need to verify your service will be more readily available.

If you are requesting previous service credit to establish eligibility for a vested retirement benefit, you should request credit while you are on the payroll of a participating employer. If you receive a statement of the cost after you leave the payroll, you must make payment within 30 days of notification. You can request credit for previous service after you leave the payroll, but you must pay the cost and return to the payroll of a participating employer for the service to be credited and for you to become vested.

**If your purchased service brings your total credited service to ten or more years, you will be vested and no longer be eligible to withdraw your contributions and end your membership.**
**ADDITIONAL SERVICE CREDIT FOR SICK LEAVE (SECTION 41[j])**

Section 41(j) of the Retirement and Social Security Law (RSSL) provides an optional sick leave benefit. If your employer has chosen to offer this benefit, you may receive service credit for your unused, unpaid sick leave days at retirement. To be eligible for this benefit, you must retire directly from public employment or within a year after separating from service. The maximum number of creditable sick leave days is generally 100, but can be 165 or 200 in certain cases. Contact your employer or refer to your Member Annual Statement to determine if this benefit is available to you.

Credit for your unused sick leave at retirement cannot be used to:

- Qualify for vesting. For example, if you have nine years and ten months of service credit and you need ten years to be vested, your sick leave credit cannot be used to reach the ten years.
- Qualify for a better retirement benefit calculation. For example, if you have 19¾ years of service credit but your pension will improve substantially if you have 20 years, your sick leave credit cannot be used to reach the 20 years.
- Increase your pension beyond the maximum amount payable under your retirement plan.
- Meet the service credit requirement to retire under a special 20- or 25-year plan.
Final Average Salary (FAS)

Your pension is based on your years of credited service and your final average salary (FAS). FAS is the average of the wages you earned during any five consecutive years of service when your earnings were highest. This is usually the last five years of employment.

If the earnings in any year included in the FAS period exceed the average of the previous four years of earnings by more than 10 percent, the amount in excess of 10 percent is excluded from the computation.

The calculation of your FAS can include, but is not limited to, the following types of payments. In some cases, certain restrictions may apply.

- Regular salary;
- Overtime up to the annual limit, if earned in the FAS period; *
- Holiday pay;
- Noncompensatory overtime earned in the FAS period; * and
- Longevity payments (maximum of five), if earned in the years used in the FAS calculation.

* Reportable payments for overtime cannot exceed $15,000 for fiscal year 2012-13. This limitation may be adjusted each fiscal year based on the CPI as of December 31st of the previous year.

The following types of payments are not considered regular compensation and will not be included in your FAS calculation:

- Lump sum vacation pay;
- Wages reported from more than two separate employers;
- Unused sick leave;
- Payments made as a result of working your vacation;
- Overtime payments that exceed the limitation;
- Any payments that cause your salary to exceed that of the Governor; *
- Any form of termination pay;
- Payments made in anticipation of retirement;
- Lump sum payments for deferred compensation; and
- Any payments made for time not worked.

* Currently $179,000 annually.
Service Retirement Benefit

ELIGIBILITY, THE BENEFIT AND FILING

Eligibility
You will be eligible for a service retirement benefit when you reach age 55 and have ten or more years of credited service. For the full retirement benefit, you must be 63 years old at retirement. You may retire as early as age 55, but you will receive a reduced benefit.

The Benefit
- If you retire with less than 20 years of service credit, your benefit will equal 1.66 percent of your FAS for each year of service credit.
- With 20 years of service credit, your benefit will equal 1.75 percent of your FAS for each year of service credit (35 percent of your FAS).
- If you retire with more than 20 years of service credit, you will receive an additional 2 percent of your FAS for each year of service credit in excess of 20 years.

Examples:
At age 63, with 19 years of service and an FAS of $35,000:
$35,000 \times 1.66\% \times 19 \text{ years} = \$11,039 \text{ per year}
$920 \text{ per month}

At age 63, with 20 years of service and an FAS of $35,000:
$35,000 \times 1.75\% \times 20 \text{ years} = \$12,250 \text{ per year}
$1,021 \text{ per month}

At age 63, with 32 years of service and an FAS of $35,000:
$35,000 \times 1.75\% \times 20 \text{ years} = \$12,250 \text{ per year}
plus
$35,000 \times 2\% \times 12 \text{ years} = \$8,400 \text{ per year}
$20,650 \text{ per year}
$1,721 \text{ per month}

Filing
Your [Application for Service Retirement (RS6037)] must be on file with the Office of the State Comptroller at least 15 days but not more than 90 days before the date on which your retirement will occur. The 15-day filing requirement is waived if you are over age 70 at retirement.
Retiring Before Age 63

If you retire between the ages of 55 and 63, your benefit will be reduced. The percentage of the benefit reduction is prorated based on your exact age at retirement.

<table>
<thead>
<tr>
<th>Age at Retirement</th>
<th>Percentage of Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>52.0</td>
</tr>
<tr>
<td>56</td>
<td>45.5</td>
</tr>
<tr>
<td>57</td>
<td>39.0</td>
</tr>
<tr>
<td>58</td>
<td>32.5</td>
</tr>
<tr>
<td>59</td>
<td>26.0</td>
</tr>
<tr>
<td>60</td>
<td>19.5</td>
</tr>
<tr>
<td>61</td>
<td>13.0</td>
</tr>
<tr>
<td>62</td>
<td>6.5</td>
</tr>
<tr>
<td>63</td>
<td>0</td>
</tr>
</tbody>
</table>

It is important to know that once you retire with a reduced benefit, the reduction is permanent — it does not end when you turn 63.
Examples:

Retiring on your 55th birthday, with 19 years of service and an FAS of $35,000:

\[
\begin{align*}
35,000 \times 1.66\% \times 19 & \quad = \quad 11,039 \text{ per year} \\
- 5,740 \text{ (52 percent benefit reduction)} & \\
\hline
5,299 \text{ per year} & \\
\hline
442 \text{ per month} & 
\end{align*}
\]

Retiring on your 55th birthday, with 20 years of service and an FAS of $35,000:

\[
\begin{align*}
35,000 \times 1.75\% \times 20 & \quad = \quad 12,250 \\
- 6,370 \text{ (52 percent benefit reduction)} & \\
\hline
5,880 \text{ per year} & \\
\hline
490 \text{ per month} & 
\end{align*}
\]

Retiring on your 55th birthday, with 32 years of service and an FAS of $35,000:

\[
\begin{align*}
35,000 \times 1.75\% \times 20 & \quad = \quad 12,250 \text{ per year} \\
\hline
\text{plus} & \\
35,000 \times 2\% \times 12 & \quad = \quad 8,400 \text{ per year} \\
\hline
20,650 \text{ per year} & \\
- 10,738 \text{ (52 percent benefit reduction)} & \\
\hline
9,912 \text{ per year} & \\
\hline
826 \text{ per month} & 
\end{align*}
\]
Choosing a Payment Option

RECEIVING YOUR BENEFIT AND FILING YOUR OPTION ELECTION

Receiving Your Benefit

At retirement, you must decide how you want your retirement benefit paid. You can choose from several options, all of which will provide you with a monthly benefit for life. For example, you may elect the Single Life Allowance, which provides the maximum amount payable during your lifetime, with nothing payable to a beneficiary upon your death. Or, you may elect to receive a smaller monthly benefit to provide for a possible payment to a designated beneficiary after your death.

Filing Your Option Election

You must file your Option Election form (unless notified otherwise, as in the case of disability retirement) before the first day of the month following your retirement date. You have up to 30 days after your pension benefit becomes payable to change your selection. If you are a disability retiree, you may change your option selection up to 30 days after your disability application is approved, or up to 30 days after your retirement date, whichever is later.

If your election is not timely, by law, we must process your retirement as if you had selected the Single Life Allowance (Option 0).

AVAILABLE OPTIONS

Single Life Allowance (Option 0)

This is the basic retirement benefit. It provides the maximum benefit payment to you each month for the rest of your life. Under this selection, all payments cease upon your death. When you die (even if it is only one year, or sooner, after retiring), nothing will be paid to any beneficiary.

Joint Allowance — Full*

This option will provide you with a reduced monthly benefit for your lifetime, and is based on your birth date and that of your beneficiary. After your death, your beneficiary will receive the same monthly amount (without COLA) for life. If your beneficiary dies before you, all benefit payments will cease upon your death.
Joint Allowance — Partial*

This option will provide you with a reduced monthly benefit for your lifetime, and is based on your birth date and that of your beneficiary. After your death, your beneficiary will receive a specific percentage of your benefit (without COLA) which you select (75, 50, or 25 percent) for life. If your beneficiary dies before you, all payments will cease upon your death.

Pop-Up/Joint Allowance — Full or Half*

These options will provide you with a reduced monthly benefit for your lifetime. If you die before your beneficiary, we will continue paying the same monthly amount or one-half that amount (without COLA), depending on which option you elect, to your beneficiary for life. If your beneficiary dies first, your benefit will be increased to the amount you would have received if you had selected the Single Life Allowance at retirement, and all payments will cease upon your death.

Five Year Certain and Ten Year Certain

These options will provide you with a reduced monthly benefit for your lifetime, with the additional guarantee that if you live for less than five years or ten years after retirement, depending upon which option you elect, payments in the same amount you were receiving (without COLA) will be made to your beneficiary for the balance of the five- or ten-year period. You may change your beneficiary within the five- or ten-year period.

Alternative Options

If the options described here do not meet your needs, we will consider written requests for other payment methods. These requests must be outlined in detail by you and then approved by us for legal and actuarial soundness.

* If you elect this option, you must submit proof of your beneficiary’s birth date. You can designate only one beneficiary and you cannot change your designation after your retirement. If your beneficiary is your spouse at the time of your death, he or she will be eligible for 50 percent of your COLA.
Items That May Affect Your Pension

BORROWING AGAINST YOUR CONTRIBUTIONS

If you meet eligibility requirements, you may take a loan from the Retirement System.

Before you apply, you should be aware of the federal tax laws pertaining to Retirement System loans. **Your loan will be taxable if:**

- The loan amount exceeds federal limits.
- You have a loan with a deferred compensation (457) or tax-sheltered annuity (403-b) plan through your current employer that causes your loan to exceed the federal limits for nontaxable loans. Exceeding these limits could result in significant tax consequences for you.
- You do not make the required payments on your loan at least once every three months or do not complete payment within five years from the date the loan was issued.
- You retire or withdraw from the Retirement System and have one or more outstanding loan balances.

If your loan is taxable, or becomes taxable as described above, you must include it on your federal income tax return for the year the loan is granted or becomes taxable. If you are under 59½ at the time, you may be required to pay a 10 percent penalty tax in addition to any ordinary federal income tax you owe. Please consider consulting a tax advisor before applying for a taxable loan from the Retirement System.
The following rules apply when borrowing against your contributions:

- You must be in active service and have one year of member service credit.
- Each loan must be for a minimum of $1,000, so you must have an account balance of at least $1,334. The total of all your loans may not be more than 75 percent of your contribution balance.
- You repay each outstanding loan through payroll deductions in an amount sufficient to repay the loan, interest and insurance premium within five years. The minimum deduction to repay your outstanding loan balances must be at least 2 percent of your salary.
- You may borrow only once in any 12-month period.
- Prior to retirement, and 30 days after issuance, loans are fully insured in case you die before repaying them.

Please note: Any outstanding loan balance when you retire will permanently reduce your pension. You cannot pay off your loan once you retire. The amount of your pension reduction will be based on your age, the loan balance at retirement, and type of retirement (service or disability).

These are examples of how your service retirement benefit will be permanently reduced by an outstanding loan balance at retirement. The approximate reductions are for calendar year 2012. The amount of the reduction changes annually.

<table>
<thead>
<tr>
<th>Age at Retirement</th>
<th>Outstanding Loan Balance</th>
<th>Annual Pension Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>$ 5,000</td>
<td>$ 271</td>
</tr>
<tr>
<td></td>
<td>$ 10,000</td>
<td>$ 542</td>
</tr>
<tr>
<td>62</td>
<td>$ 5,000</td>
<td>$ 317</td>
</tr>
<tr>
<td></td>
<td>$ 10,000</td>
<td>$ 633</td>
</tr>
<tr>
<td>65</td>
<td>$ 5,000</td>
<td>$ 343</td>
</tr>
<tr>
<td></td>
<td>$ 10,000</td>
<td>$ 686</td>
</tr>
<tr>
<td>70</td>
<td>$ 5,000</td>
<td>$ 400</td>
</tr>
<tr>
<td></td>
<td>$ 10,000</td>
<td>$ 801</td>
</tr>
</tbody>
</table>

If you already have an outstanding Retirement System loan and want to take a new loan, please contact our Call Center and connect with our automated information line to determine if refinancing your current loan or carrying multiple loans would be better for you. Although your payment may be larger if you choose multiple loans, you may reduce or eliminate your tax liability.
**Cost-of-Living Adjustment**

Once you meet the eligibility requirements, including age and number of years retired, your retirement benefit will permanently increase each year. This adjustment, subject to pension caps and limitations, is 50 percent of the previous year’s annual rate of inflation, but never less than 1 percent or more than 3 percent of your benefit. The adjustment percentage is applied only to the first $18,000 of your Single Life Allowance, even if you selected a different option at retirement.

You will begin receiving cost-of-living adjustments (COLAs) when you are:

- Age 62 or older and retired for five or more years;
- Age 55 or older and retired for ten or more years (generally applies to members in special plans that allow for retirement, regardless of age, after a specific number of years); or
- Receiving a disability pension for five or more years.

When you die, if you selected an option that pays a lifetime benefit to your beneficiary, and the beneficiary is your spouse at the time of death, he or she will be eligible to receive half of the COLA amount you would have been entitled to receive.

**Divorce**

The New York State Court of Appeals has determined that retirement benefits are marital property and subject to equitable distribution. “Equitable distribution” is the division of marital assets between spouses after the marriage has ended. This division must be stated in the form of a Domestic Relations Order (DRO) if we are to pay a portion of your pension to your ex-spouse.

A DRO gives us specific direction on how your retirement benefits should be divided. However, it does not allow for a distribution of your pension until you actually retire, die or terminate membership.

If you are divorced, it is especially important to review your beneficiary designations to ensure your benefits will be distributed according to your wishes. Effective July 7, 2008, beneficiary designations for certain benefits are revoked when a divorce, annulment or judicial separation becomes final. An exception applies if the terms of a DRO specify otherwise. Beneficiary designations may be revoked for the Ordinary Death Benefit, Cash Refund Initial Value option (Tier 1), Cash Refund Contributions option (Tiers 1 and 2) and Five and Ten Year Certain options. Survivor Benefit beneficiaries for retirees who chose the Single Life Allowance option or certain alternative options may also be revoked.

For more information on how your pension benefits may be affected by divorce, consult your attorney, contact our Matrimonial Bureau, read our guide to Domestic Relations Orders and review our Divorce FAQ.
You are eligible for a vested retirement benefit if you leave public employment before age 55 and you have ten or more years of credited service. This means that when you reach age 55, you will be entitled to a pension based on your service and the salary earned when you were an active member.

Your full vested benefit is payable at age 63, but you can choose to retire as early as age 55. However, if you choose to retire prior to 63, your benefit will be permanently reduced.

This benefit is calculated the same way as your service retirement benefit. However, it cannot be less than the value of your accumulated contributions with interest. For an explanation of your benefit, please refer to the Service Retirement Benefit section.

The vested retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

To receive your vested pension at the earliest possible date, file a retirement application no earlier than 90 days before your 55th birthday. If we receive your retirement application after your 55th birthday, your vested retirement is effective the date the application is received.

Remember, it is up to you to file a retirement application when you become eligible and wish to receive your benefit.
Disability Retirement Benefits

**ARTICLE 15 DISABILITY BENEFIT**

If you become unable to perform your duties because of a permanent physical or mental incapacity, you may be eligible for a disability retirement benefit. If you are eligible, applications for disability and regular service retirement benefits may be submitted simultaneously.

You must select an option for the payment of your disability benefit.

**Eligibility**

To qualify for this disability retirement benefit, you must have at least ten years of credited service, unless your disability results from an accident you sustain on the job. If your disability results from an on-the-job accident, not due to your own negligence, there is no minimum service requirement.

**The Benefit**

If approved, this is a benefit equal to the greater of:

- 1.66 percent of your FAS for each year of credited service; or
- 1.66 percent of your FAS for each year of credited service, plus 1.66 percent of your FAS for each year of service you might have earned before age 60, but not more than one-third of your FAS.

**Example:**

Member is age 57 with 19 years of service
Three possible years of additional service to age 60
FAS = $30,000

\[
\begin{align*}
\text{30,000} \times 1.66\% \times 19 \text{ years} & = \$9,462 \\
\text{or} \\
\text{30,000} \times 1.66\% \times 22 \text{ years (19 years + 3 additional)} & = \$10,956
\end{align*}
\]

Maximum benefit = 1/3 of FAS: 1/3 \times $30,000 = $10,000

**Benefit payable is** $10,000
Example:
Member is age 57 with 12 years of service
Three possible additional years of service to age 60
FAS = $30,000

\[
\begin{align*}
30,000 & \times 1.66\% \times 15 \text{ years (12 years + 3 additional)} = \$7,470 \\
\text{Maximum benefit} = \frac{1}{3} \text{ of FAS: } 1/3 \times 30,000 & = \$10,000 \\
\text{Benefit payable is} & = \$7,470
\end{align*}
\]

If your disability is a result of an on-the-job accident, the benefit payable is at least one-third of your FAS.

If you are 60 or older at the effective date of your disability retirement and you have less than 20 years of credited service, your disability benefit would be equal to the benefit payable to you at the normal retirement age of 63, not to exceed one-third of your FAS.

If you are 60 or older at the effective date of your disability retirement and you have 20 or more years of credited service, your disability benefit would be equal to 1.66 percent of your FAS for each year of credited service.

Filing
You, your employer, or someone authorized with your power of attorney may file your Article 15 Disability Retirement Application (RS6340). The application must be filed while you are still on the payroll or within:

- Three months of the last date you were paid on the payroll; or
- Twelve months after receiving notification of termination of employment, provided you were on an authorized medical leave of absence or receiving Workers' Compensation or other similar employer-funded benefits.
Death Benefits

**ORDINARY DEATH BENEFIT – ELIGIBILITY AND FILING**

Your beneficiary may be entitled to an ordinary death benefit if you meet the eligibility requirements and your death is not attributable to an on-the-job accident. The first $50,000 of this benefit is paid in the form of group term life insurance, which is currently exempt from federal income tax. Your accumulated contributions are also payable to your beneficiary.

**Eligibility**

An ordinary death benefit may be payable to your designated beneficiary if you have completed at least one year of service since last joining the Retirement System and your death occurs:

- While you are on the payroll;
- While you are on an authorized medical leave of absence (with or without pay);
- While you are receiving Workers' Compensation or other employer-funded benefits, for up to two years (which may be extended for an additional two years) following the last date you were paid on the payroll, provided your employment has not been terminated by resignation, employer action or any other means while receiving those benefits; or
- Within 12 months of the last date you were receiving salary, on an authorized medical leave of absence, or receiving Workers' Compensation or other employer-funded benefits, provided you were not otherwise gainfully employed during that period.

**Filing**

Your family or employer should notify us of your death as soon as possible so we can send the appropriate forms to your beneficiary.

**ORDINARY DEATH BENEFIT**

**Prior to Retirement**

The death benefit is equal to your salary multiplied by your years of service, not to exceed three years of salary. For example, if you die after one year of service, your beneficiary would receive a benefit equal to one year of your salary; if you die after two years of service, your beneficiary would receive a benefit equal to two years of your salary; and if you die after three or more years of service, your beneficiary would receive a benefit equal to three years of your salary. The salary is limited by Section 130 of the Civil Service Law.
The following types of payments are not considered regular compensation and will not be included in the calculation:

- Wages reported from more than two separate concurrent employers;
- Overtime payments which exceed the limitation;
- Any payments which cause your salary to exceed that of the Governor;
- Payments made as a result of working your vacation; and
- Any payments made for time not worked.

**Example:**

$30,000 earned in last year

<table>
<thead>
<tr>
<th>After 1 year of service</th>
<th>= $30,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>After 2 years of service</td>
<td>= $60,000</td>
</tr>
<tr>
<td>After 3 or more years of service</td>
<td>= $90,000</td>
</tr>
</tbody>
</table>

For members working beyond age 60, the death benefit that would have been payable if you died at age 60 will be reduced by 4 percent each year that you stay in public employment, for a maximum of a 40 percent reduction.

**Using the Example Above:**

At age 60, a member was eligible for a $90,000 death benefit. If the member dies while still employed, his or her beneficiary would receive:

<table>
<thead>
<tr>
<th>Age</th>
<th>Maximum Percent Payable</th>
<th>Death Benefit Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>60</td>
<td>100</td>
<td>$90,000</td>
</tr>
<tr>
<td>61</td>
<td>96</td>
<td>$86,400</td>
</tr>
<tr>
<td>62</td>
<td>92</td>
<td>$82,800</td>
</tr>
<tr>
<td>63</td>
<td>88</td>
<td>$79,200</td>
</tr>
<tr>
<td>64</td>
<td>84</td>
<td>$75,600</td>
</tr>
<tr>
<td>65</td>
<td>80</td>
<td>$72,000</td>
</tr>
<tr>
<td>66</td>
<td>76</td>
<td>$68,400</td>
</tr>
<tr>
<td>67</td>
<td>72</td>
<td>$64,800</td>
</tr>
<tr>
<td>68</td>
<td>68</td>
<td>$61,200</td>
</tr>
<tr>
<td>69</td>
<td>64</td>
<td>$57,600</td>
</tr>
<tr>
<td>70 &amp; older</td>
<td>60</td>
<td>$54,000</td>
</tr>
</tbody>
</table>
**POST-RETIREMENT AND OUT-OF-SERVICE DEATH BENEFITS**

**After Retirement**

Your beneficiary may be eligible to receive a post-retirement death benefit if you:

- Retire directly from service; or
- Are a vested member and your date of retirement is within one year of leaving public employment in New York State.

The post-retirement death benefit is calculated at your retirement. During your first year of retirement, the benefit is 50 percent of the ordinary death benefit payable at retirement; during your second year of retirement, the benefit is 25 percent. During your third year and thereafter, the benefit will be 10 percent of the ordinary death benefit that would have been payable at age 60, if any, or at retirement, whichever was earlier.

**Example:**

Retirement at age 63 with a salary of $30,000

\[
\begin{align*}
$30,000 \times 3 &= 90,000 \\
\text{Reduction for working until age 63:} &= -10,800 \\
\text{Ordinary Death Benefit at Retirement:} &= 79,200
\end{align*}
\]

- 1st year of retirement (50 percent of ordinary death benefit): $39,600
- 2nd year of retirement (25 percent of ordinary death benefit): $19,800
- After 2nd year of retirement (10 percent of benefit at age 60): $9,000

**Out-of-Service Death Benefit**

If you are a vested member with at least ten years of credited service, have not retired and you die more than one year after leaving public employment, 50 percent of the death benefit may still be payable. This vested benefit is also payable if you die within one year of leaving covered service, but were gainfully employed during that time.

**Filing**

Your family or employer should notify us of your death as soon as possible so we can send the appropriate forms to your beneficiary.
**Accidental Death Benefit**

**Eligibility**

Regardless of your years of service credit, if you die as the natural and proximate result of an on-the-job accident, not due to your own willful negligence, an accidental death benefit may be payable on your behalf.

**The Benefit**

The accidental death benefit is a pension equal to one-half (50 percent) of your wages during your last year of active service and is paid to your beneficiaries* in this order:

- To your surviving spouse, provided he/she has not renounced survivorship rights in a separation agreement, until remarriage;
- To your surviving children, until they reach age 25;
- To your dependent parent or parents, as determined under regulations established by the Comptroller; or
- To any other person who qualified as a dependent on your final federal income tax return for the year preceding death, until that person reaches age 21.

The benefit will be divided equally among the beneficiaries in any one category if you have more than one child, parent or other dependent.

If all the beneficiaries listed above become ineligible for benefit payments, and the payments made to that time do not equal or exceed the amount of the ordinary death benefit that would have been payable at the time of death, we will pay the difference to the last eligible beneficiary or beneficiaries. If none exist, the benefit will be paid to the executors of your will, or the persons who would be the executors if you die without making a will.

**Filing**

Your family should notify us of your death as soon as possible so we can forward the appropriate forms to your beneficiary. The application for the accidental death benefit must be filed within 60 days of your date of death. The head of the Retirement System may accept an application after 60 days, but only if an ordinary death benefit has not been paid.

* All beneficiaries would be eligible for annual COLAs after receiving the accidental death benefit for five years.
Receiving Your Benefits

**APPLYING FOR BENEFITS**

To apply for all Retirement System benefits, you must file the appropriate application form with the Office of the State Comptroller in a timely manner. Forms are available from our website, our Call Center or your employer. Specific filing instructions are detailed in each benefit description. If you need help, you can call or write us, or make an appointment to speak with an Information Representative at one of our 16 consultation sites throughout New York State.

**Filing With the Office of the State Comptroller**

Many retirement benefit applications and other documents are required by law to be filed with the Office of the State Comptroller within specific time limits. For a form to be considered as “filed with the Comptroller,” it must be received by one of our consultation sites, or another office of the State Comptroller. **Giving your employer the form does not mean that you have “filed with the Comptroller.”**

As an alternative to visiting our offices to file these time-sensitive documents personally, you can fulfill the filing requirements by mailing the document to us. We will consider it filed when it is delivered to us by the Post Office. If you are concerned about meeting a filing deadline, you can mail the document via “Certified Mail — Return Receipt Requested.” When we receive the document, it will be considered as having been filed on the same date it was mailed.

To meet a filing deadline (such as an application for retirement benefits or an option election form), you can also send the document to us via fax. Although we will consider the form as filed on the date the transmission is received, you must still mail us the original document to continue the process and properly complete the filing requirement.

**Filing Multiple Applications**

Should you become ill or disabled and unable to perform your duties, depending on the circumstances, you may be eligible to file applications “without prejudice” for disability and regular service retirement benefits simultaneously. “Filed without prejudice” means we will process all filed applications and, if more than one benefit is approved, you will be given the opportunity to choose your pension from the approved benefits.
**CHALLENGING A DETERMINATION**

We can pay only those benefits authorized by law, and cannot pay you any benefits if you do not meet all the eligibility requirements established by law. If you believe that your benefit has been incorrectly denied or improperly calculated, you may request a hearing and redetermination to be held before a hearing officer.

Your request must be in writing and filed with the Hearing Administration Bureau within four months of the determination. We will send you an acknowledgment letter along with an explanation of the hearing process when we receive your written request. If you have questions regarding the hearing process, please review our [Administrative Hearing FAQs](#), email the Hearing Administration Bureau at Hearings@osc.state.ny.us or call us at 1-866-805-0990 or 518-474-7736 in the Albany, New York area.
How to Stay Informed

Your retirement benefits are an important part of a solid financial plan. They can help you and your beneficiaries achieve financial security in retirement or in the event of disability or death. Use these tips to help you understand your benefits and stay informed.

- Enroll in Retirement Online and access your personal retirement-related information quickly, easily and securely on our website.
- Sign up for E-News, our free email newsletter, for the latest retirement news. It includes a special section dedicated to pre-retirement planning.
- Read the member newsletters we publish for current retirement information and updates on your benefits.
- Review your Member Annual Statement carefully and correct any errors quickly.
- Visit our website frequently to learn about your benefits, download forms, read informative booklets and brochures, and get tips on preparing for retirement.
- Attend a pre-retirement presentation to learn about the retirement process, know what you can expect and discuss post-retirement issues. At your employer’s request, we offer these presentations designed for members within five years of retirement eligibility.
- Make an appointment to visit any of our 16 consultation sites where you can meet with an Information Representative to discuss special concerns or request specific information.
- Notify us if your mailing address changes, so you can stay up-to-date about benefits. This is especially important if you leave public employment before you are eligible to retire.
- Contact us with any questions you have about your benefits.
This retirement plan summary describes the benefits available to Tier 6 Employees' Retirement System members covered by the Coordinated Retirement Plans (Article 15) of the New York State Retirement and Social Security Law (RSSL) as enacted by the New York State Legislature and amended by Chapter 18, Laws of 2012.

Throughout this publication, you will find references to “Sections” and “Articles” that refer to the RSSL. The New York State and Local Retirement System, headed by the Comptroller of the State of New York, administers this plan. Our main office is in Albany, New York.
Material Safety Data Sheets/Right to Know Law

New York State’s “Right To Know” Law gives employees the right to information regarding toxic substances encountered in the workplace. This information is located in the Material Safety Data Sheets Manual maintained in each department, and includes a description of the known and suspected health hazards associated with a chemical substance, and the circumstances under which these effects are manifested.

The intent of the law is to inform workers; knowledgeable workers can make more reasoned decisions with respect to job-related health risks and the need for corrective actions. Employees who recognize the hazards associated with toxic substances are more likely to practice safe work habits.

**Employee Rights**

1. Employees or their representatives may request, and must receive upon request, information about chemical substances.
2. An employee may refuse to work with a toxic substance if he/she has requested information about it and has not received the written reply within 72 hours, excluding weekends and holidays.
3. An employee may exercise any right pursuant to, or directly related to, the “Right To Know” law without fear of discrimination.
4. An employee must not be required to waive any rights under the “Right To Know” law as a condition of employment.
5. An employee may file a complaint with the department of Labor. If he/she has been discriminated against in violation of the “Right To Know” law.

**Obtaining Information**

Under the law, employees who are likely to be, or have been exposed to hazardous materials, are entitled to information.

Information is available to anyone in response to a formal request. Besides providing information, a training program has been initiated to increase the employees awareness of hazardous substances through recognition of what
constitutes a toxic substance, and what work practices must be employed to keep exposure to a minimum.
FLEX PLAN

WHEREAS, the Congress of the United States has enacted legislation in the form of Sections 105, 106 and 125 of the Internal Revenue Code of 1986 which was designed to encourage employers to offer their employees certain benefits through flexible spending plans operated on a nondiscriminatory basis; and

WHEREAS, the TOWN BOARD of the Town of Riverhead has determined that it is in the best interest of eligible employees of the Town of Riverhead to adopt a flexible spending plan that will better enable eligible employees to provide for health, dental and optical benefits in a flexible and cost effective manner;

NOW THEREFORE, in order to accomplish these purposes the Town Board of the Town of Riverhead has by appropriate resolution adopted the Town of Riverhead Flexible Spending Plan, as hereinafter stated, to be effective May 3, 1995.

It is the intention of the Employer that this Plan qualify as a “Cafeteria Plan” within the meaning of Section 125 of the Internal Revenue Code of 1986, as amended.

ARTICLE I – NAME PURPOSE AND EFFECTIVE DATE

1.1 Name of Purpose of Plan – This Plan shall be known as the “Town of Riverhead Flexible Spending Plan.” This Plan is intended to be a “Cafeteria Plan” within the meaning of Section 125(d) of the Internal Revenue Code.

1.2 Effective Date – The effective date of this Plan is May 3, 1995.

ARTICLE II – DEFINITIONS

2.1 “Administrator” means the person or persons or corporation appointed by the Employer to carry out the administration of the plan.

2.2 “Benefits” means the benefits available under the Plan that are described in Section 4.1

2.3 “Code” means the Internal Revenue Code of 1986, as amended from time to time.

2.4 “Compensation” means the total cash renumeration received by an eligible employee from the Employer during a Plan Year prior to any reductions pursuant to a salary redirection agreement under the terms of this Plan. It shall include overtime, differentials, bonuses and any form of renumeration to the eligible employee for services rendered to the Employer as an employee.
2.5 "Dependent" means an individual who qualifies as a dependent of an eligible employee within the meaning of Section 125 of the code. In the case of health benefits provided under an insurance policy, the "Dependent" must also be defined as dependents under the policy.

2.6 "Election Period" means the period beginning 60 days and ending 30 days immediately preceding the beginning of each Plan Year for the election of benefits and salary redirection.

2.7 "Eligible Employee" means any current employee of the Employer who is eligible to participate in the Plan under Section 3.1.

2.8 "Employer" means the Town of Riverhead.

2.9 "Insurer" means an insurance company or health maintenance organization organized or incorporated in any one of the states of the United States which is licensed or authorized by the State of New York to provide a health insurance policy.

2.10 "Insurance Policies" means the agreements between the Employer and the various insurers under which the insurer(s) provide health, dental and/or optical insurance coverage to support in whole or in part the medical benefits as agreed to by the Employer to eligible employees and/or their dependents.

2.11 "Participant" means an eligible employee who voluntarily agrees to participate in the Plan.

2.12 "Plan Contribution" means the amounts paid by Plan participants or on their behalf during the Plan Year either by foregoing cash options or by reducing salary to pay for additional noncash benefits.

Such Plan Contributions may be made on a pretax basis in which case the Plan Contributions are not included in the participant's taxable income for the Plan Year.

2.13 "Plan Year" means the twelve-month period commencing on January 1 and ending on December 31, except that the first Plan Year shall begin on May 3, 1995 and end on December 31, 1995. The Plan Year shall be the coverage period for the benefits provided for under this Plan.

If an eligible employee commences participation under the Plan after the commencement date of the Plan Year, the first period of coverage shall begin with the date of participation and shall end on the last date of the Plan Year.

2.14 "Premiums" means the participant’s cost for insurance policy benefits.
“Premium Reimbursement Account” means an account to which Plan Contributions are allocated for each participant and from which the premiums of the participant may be paid or reimbursed.

“Salary Redirection” means Plan Contributions made by the Employer for a participant. These are allocated to the premium reimbursement account as authorized by a participant’s election of benefits under the Plan.

“Salary Redirection Agreement” is an agreement between the participant and the Employer in which the participant agrees to reduce his compensation which has not been actually or constructively received by a certain amount and the Employer agrees to contribute said amount to the Plan on behalf of the participant.

ARTICLE III – ELIGIBILITY AND PARTICIPATION

3.1 Eligibility – All employees on the effective date of this Plan and any future employees who are employed by the Employer during a Plan Year who satisfy the eligibility requirements of the Employer’s group medical plan, the terms of which are incorporated herein by reference, and the applicable collective bargaining agreement between the Employer and a union representing a unit of employees including the subject employees or, in the case of a nonunion employee, Town Board resolution.

3.2 Participation – Each employee who is eligible to participate in the Plan and who does not thereafter become ineligible to participate in the Plan for any reason shall become a Plan Participant in this Plan on the later of (1) the effective date of this Plan or (2) for nonunion employees on the first day of the calendar month following 60 days of continuous employment with the Employer as an eligible employee and for union employees on the date they become eligible for benefits in accordance with the terms of the relevant collective bargaining agreement.

3.3 Terms of Participation – Participation on the Plan cease if a participant ceases employment becomes ineligible, terminates or is discharged from employment, dies or if the Plan is terminated. All benefits under the Plan will cease at the that time except that any rights which the participant may have under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 as amended, and subsequent regulations and amendments and any other state of federal law shall survive to the extent provided by said statutes.
ARTICLE IV – BENEFITS UNDER THE PLAN

4.1 Benefit Options – Each eligible employee may select one of the two options listed under A, B, C and D below:

A. 1. Direct compensation in the form of salary payment
   2. Salary redirection

B. 1. Declination in lieu of a specific level of health insurance coverage
   2. No declination of health insurance coverage

C. 1. Declination in lieu of a specific level of dental insurance coverage
   2. No declination of dental insurance coverage

D. 1. Declination in lieu of a specific level of optical insurance coverage
   2. No declination of optical insurance coverage.

4.2 Benefit Process – For any Plan Year, a participant who is an eligible employee may affirmatively elect to receive a benefit listed in A, B, C, and/or D in 4.1 above by completing and signing an election form during the election period. The Employer shall provide the forms. After the form has been properly submitted and received and accepted by the Employer the initial election shall become effective on the first day of the first pay period beginning after the election form is received.

Once effective an election under this section shall remain in effect throughout the Plan Year in which it was made and throughout all subsequent Plan Years unless a change is made pursuant to 4.3 below.

An eligible employee will be deemed to have elected compensation in the form of direct salary if the employee does not submit a written election form on a timely basis.

4.3 Change In Benefit Elections – Each eligible employee will have the opportunity to change his benefit election effective on the first date of the subsequent Plan Year. Such election shall be made on an election form provided by the Plan Administrator and must be made prior to the commencement of the Plan Year during the election period.

An eligible employee will not be permitted to change any benefit election for a Plan Year, except as provided (1) under § 125 of the Code and the rules and regulations issued thereunder and (2) the insurance policy.

4.4 Termination of Participation – A participant may terminate benefit election by notifying the Plan Administrator in writing during the election period that he does not want to
participate in that benefit for the next Plan Year. In such case the employee will have to wait for the next election period before electing to participate in the Plan.

4.5 **Forfeiture of Unused Benefits** – A participant shall receive no reimbursement for benefits elected but unused during a Plan Year for any reason. Forfeitures may be used to pay plan administration expenses or costs.

**ARTICLE V – SALARY REDIRECTION**

5.1 **Right of Election** – An eligible employee may elect to receive full salary in cash or to the participant in a salary redirection agreement. Unless the eligible employee affirmatively states that he wishes to receive full salary in cash, he will be deemed to participate in salary redirection.

5.2 **Salary Redirection Agreement** – Under the terms of a salary redirection agreement a participant agrees to have deducted from his salary an amount which is equal to the participant’s premium costs for health insurance under insurance policies agreed to by the Employer. The Employer agrees to contribute to the Plan as a Plan Contribution allocated for that participant an amount equal to the amount deducted from the participant’s salary for that purpose. Premiums will be paid on behalf of the participant from the amount of Plan Contributions allocated to the participant. If more than one insurance benefit is selected, sub-accounts for each of the participant’s elections will be made.

5.3 **Terms of Election** – A participant shall determine salary redirection prior to the beginning of the Plan Year during the election period.

The first term of the salary redirection agreement for new employees who were not on the payroll of the Employer during the election period shall be from the first day of the pay period following the date of participation until the end of the Plan Year.

5.4 **Revocations or New Elections** – A salary redirection may be revoked or a new election made during the Plan Year if there is a change in family status under Section 125 of the Code, the rules and regulations thereunder, and the insurer permits such revocation or new election.

5.5 **Rules and Regulations** – The Plan Administrator may establish reasonable rules and regulations for the determination of amounts of salary redirection for each payroll period and for the implementation of this benefit.

5.6 **Application of Premium** – As soon as practicable after each payroll period, the Employer shall apply the salary redirection to provide the participant’s premium expense.
5.7 **Changes in Premium Rates** – The amount of salary redirection shall be determined by premium costs which may increase or decrease during a Plan Year and the rate of contribution to be made by a Plan Participant under the terms of a collective bargaining agreement or by virtue of the rate of contribution required of nonunion employees. If insurance costs charged by the insurer increase or decrease during the Plan Year, the amount of salary redirection shall be adjusted accordingly.

5.8 **Medical Benefits** – The medical coverage provided, the types and amounts of benefits, the eligibility for participation and all rights and obligations concerning the terms and conditions of medical coverage and benefits shall be determined by the medical Plan that is in effect from time to time. Neither the Employer or the Plan make any representations with regard thereto or assume any responsibility for the determination of said medical coverage, benefit, eligibility for participation or any other terms and/or conditions of the medical coverage. Total premium costs shall be determined by the insurer providing the medical coverage.

**ARTICLE VI – DECLINATION OF HEALTH, DENTAL AND/OR OPTICAL INSURANCE BENEFITS**

6.1 **Right of Election** – An eligible employee may elect to receive health, dental and/or optical insurance coverage at a specific level, i.e., individual or family, or elect to receive health dental and/or optical insurance declination cash (“declination”) in lieu of health, dental and/or optical insurance coverage provided the employee meets the terms of the collective bargaining agreement which offers the health, dental and/or optical insurance or the declination cash or for nonunion employees the terms established by the Town Board for the declination cash.

6.2 **Declination Cash** – A participant who elects declination cash in lieu of health, dental and/or optical insurance coverage under the terms of a collective bargaining agreement or by virtue of this being a benefit offered to a nonunion employee shall have an amount equal to the amount of the declination cash contributed to the Plan by the Employer. The Plan shall pay said cash to the participant provided the participant meets all of the requirements for said declination cash under the terms of the collective bargaining agreement or for nonunion employees as established by the Employer.

6.3 An eligible employee who does not elect declination cash shall be deemed to have retained the current level of health, dental and/or optical insurance coverage.
ARTICLE VII – PLAN CONTRIBUTIONS

7.1 Types of Contributions – Plan Contributions made on a pretax basis shall be deemed Employer contributions. Plan Contributions made on an after-tax basis shall be deemed employee contributions.

ARTICLE VIII – BENEFITS CLAIMS PROCEDURE

8.1 Insurance Claims – Claims for benefits which are provided by an insurance contract shall be made to the insurer. If the claim is denied the participant shall follow the insurer’s claim procedure. Under no circumstances shall the Plan, the Plan Administrator or the Employer be liable for any insurance claim benefit which denied.

8.2 Noninsurance Claims Review – A review of a denial in whole or in part of a noninsurance claim for benefits under this Plan shall be made to the Plan Administrator. Such claims shall be made within 65 days after denial unless special circumstances require an extension of time for presenting the claim; The Plan Administrator shall determine the validity of the claim within 60 days after its receipt. If the Plan Administrator does not make a determination within 60 days, the claim shall be deemed denied.

8.3 Plan Administrator Authority – The Plan Administrator shall have full authority to resolve any and all disputes under this Plan; He shall have full authority to interpret Plan language and to resolve and ambiguities and to determine the application of this plan.

8.4 Notice of Claim Denial – In the event the Plan Administrator denies a claim in whole or in part, the Plan Administrator shall furnish the claimant with a written notice giving the claimant the following information:

(A) The specific reason for the denial
(B) Reference to the specific Plan provisions upon which the denial is based
(C) Information or material which the claimant must submit to perfect his claim and why such information or material is necessary
(D) An explanation of the Plan Appeal Procedures as set forth in 8.5 below

8.5 Appeals Procedure – Within 60 days of denial of a claim, the claimant may submit in writing to the Plan Administrator a request for a review of the denial by the Plan Administrator. The claimant shall have the right to examine all pertinent documents, submit issues and comments in writing, have counsel of his own choice, and to submit any relevant evidence.
No later than 60 days after the receipt of a request for a review, the Plan Administrator shall render a decision in writing. It shall state the reasons for the decision and shall refer to relevant Plan provisions or Code sections upon which it is based. The decision of the Plan Administrator is final and binding.

**ARTICLE IX – PLAN ADMINISTRATOR**

9.1 **Appointment** – The Town Board shall appoint the Plan Administrator. At the option and sole discretion of the Town Board the Plan Administrator may be a single individual, corporation or committee if three persons.

9.2 **Authority and Responsibility of the Plan Administrator** – The Plan Administrator shall have authority and responsibility to take any reasonable actions necessary to control and manage the operation and administration of this Plan. The Plan Administrator shall have authority to establish rules and regulations which shall be applied on a uniform and nondiscriminatory basis to all participants to effectuate the purposes of this plan.

The Plan Administrator shall have authority to resolve all disputes under this Plan and to resolve all claims disputes.

The Plan Administrator in his sole discretion may appoint a three person appeals panel to make recommendations on benefit claims appeals to him but the final determination of any benefit claim appeal shall be that of the Plan Administrator.

The Plan Administrator shall have authority to interpret the language of this Plan and to resolve any and all ambiguities. Such determinations shall be final.

The Plan Administrator shall have authority to take any action or not take any action to effectuate the purposes of this Plan. Any rules, regulations or procedures which may be necessary for the proper administration or functioning of this Plan that are not covered by the Plan shall be the responsibility of the Plan Administrator.

9.3 **Removal of Plan Administrator** – The Town Board may remove any Plan Administrator at any time for any reason by giving 10 days written notice to the Plan Administrator and to the remaining Plan Administrators, if any.

9.4 **Expenses** – All reasonable expenses of the Plan Administrator shall be paid by the Employer. Forfeiture under this Plan may be used to offset such costs.

9.5 **Indemnification of Plan Administrator** – The Employer shall indemnify the Plan Administrator against all liabilities and/or damages including settlement costs provided by the Employer, costs and expenses, reasonable attorneys’ fees for the commission or omission of any act in connection with the performance of duties under the Plan provided
the act or omission to act was done by the Plan Administrator in good faith and in furtherance of the intent of this Plan.

ARTICLE X – AMENDMENT OR TERMINATION

10.1 Amendment – The Employer reserves the right to amend this Plan at any time or from time to time in any manner the Town deems appropriate or advisable subject to 10.3 herein.

10.2 Termination – The Employer established this Plan with the bona fide intention that it remain in effect indefinitely. Nevertheless, the Employer has no obligation to continue the Plan for any given length of time and it may terminate the Plan without any liability at any time subject to 10.3 herein and except for liability which may accrue independent of this Plan under the terms of a collective bargaining agreement.

10.3 Participants Rights – In the event of Plan amendment or termination such amendment or termination may not affect the right of any participant to collect a benefit for that portion of the Plan Year or coverage period prior to such amendment or termination to the extent such amounts are payable under the terms of the Plan as in effect prior to the calendar month in which the Plan is amended or terminated.

10.4 Effective Date of Plan Amendment or Termination – Any amendment or termination shall take effect only at the end of a pay period.

ARTICLE XI – MISCELLANEOUS

11.1 Personal Liability – Noting in this Plan shall impose or create any personal liability for any Town Board Member or the Town Supervisor or their agents acting within the scope of their authority.

11.2 Gender & Number – reference to any gender shall include the masculine, feminine and gender neutral. The plural shall include the singular and the singular the plural where appropriate.

11.3 Construction – The terms of this Plan shall be construed in accordance with the Laws of the State of New York except to the extent that such laws are preempted by ERISA or any other federal statute or by the laws of any other state.

11.4 Rights – Participants shall be allowed to examine Plan documents at the Employer’s office without charge upon written request. The participants may have a copy of Plan documents and the Employer may make a reasonable charge for making copies.
The Plan shall be operated prudently on a nondiscriminatory basis and solely in the interest of participants and beneficiaries under the Plan.

Participants may not be discriminated against in any manner to prevent them from obtaining a benefit rightly due to the participant under the Plan or from exercising rights if any, available to the participant under ERISA.

11.5 No Employment Contract Rights – Neither the establishment of the Plan or any amendment thereto shall create any right for any employee to continued employment nor shall this be construed as a contract of employment between the Employer and the employee.

ARTICLE XII – ENTIRE AGREEMENT

12.1 This document sets forth the entire Plan and excerpt as provided in this Plan no other employee benefit plan which is in existence or may be created shall be part of this Plan.
Sexual and Other Unlawful Harassment

The Town Board of the Town of Riverhead ("the Board") is committed to safeguarding the right of all employees within the Town to work in an environment that is free from all forms of sexual harassment. Conduct is deemed to be sexual harassment when the recipient perceives such behavior as unwelcome. It is irrelevant that the harasser had no intention to sexually harass the person.

The Board recognizes that sexual harassment of employees can originate from a person of either sex against a person of the opposite or same sex, and from peers as well as other employees, Board Members or any individual who foreseeably might come in contact with employees on Town property or at Town-sponsored activities. When an alleged sexual harassment occurs and the Town becomes aware of it, immediate and appropriate corrective action shall be taken.

The Board, consistent with State and Federal law, therefore condemns all unwelcome behavior of a sexual nature which may impose a requirement of sexual cooperation as a condition of employment, or which may have the purpose or effect of creating an intimidating, hostile, or offensive work environment. The Board also prohibits any retaliatory behavior against complainants or witnesses.

The Equal Employment Opportunity Commission has provided a very broad definition of "sexual harassment." The EEOC definition reads as follows:

Sexual harassment consists of unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a termn of an individual’s employment,
(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
(3) Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may take different forms. The most obvious form is the demand for sexual favors. Other forms of harassment include:

**verbal** - lewd or sexually suggestive comments, jokes of a sexual nature, sexual propositions or threats;

**non-verbal** - displaying pornographic photographs or other objects, obscene gestures;

**physical** - unwanted physical contact such as touching, pinching, coerced intercourse, assault.

Just as sexual harassment is strictly prohibited, so is harassment on the basis of race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law. The Board is committed to providing a work environment free from all forms of prohibited harassment or intimidation.

**Definition of Prohibited Harassment:**

1. Verbal or physical conduct constitutes prohibited harassment when:

   A. It is based on an applicant or employee’s race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law; and

   B. This conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

   2. Prohibited harassment refers to behavior that is based on a protected classification; that is not welcome; that is, or would be, offensive to a person of reasonable sensitivity and sensibilities; that fails to respect the rights of another; and that, therefore, unreasonably interferes with an employee’s work performance and effectiveness, or creates an intimidating, hostile or
offensive working environment. It makes no difference if the harassment is "just joking" or "teasing" or "playful." This conduct may be just as offensive as any other type of harassment.

Specific forms of behavior that may constitute prohibited harassment include, but are not limited to, the following:

**Abusive language** related to an employee’s race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status, including innuendoes, slurs, suggestive, derogatory or insulting comments or sounds, threats, and jokes based on the employee’s protected status.

**Use of demeaning or offensive words** when referring to an employee’s race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status.

Prohibited harassment is not limited to verbal comments. **Abusive written language, transmitted via e-mail or otherwise**, showing or displaying offensive objects or pictures, graphic commentaries or gestures in the workplace, which unreasonably interferes with an employee’s work performance or creates an intimidating, hostile, or offensive working environment, is also prohibited.

Any **physical contact** based on an employee’s race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status that is not welcome.

Any employee who believes that he or she has been subjected to a prohibited harassment should report the alleged misconduct immediately, so that appropriate corrective action, up to and including discharge of an employee, may be taken at once. An employee who feels he/she has been subjected to any form of prohibited harassment may report the incident to one of the designated Compliance Officers. The complainant shall not be discouraged from reporting an incident of an alleged prohibited harassment. In the absence of a victim’s complaint, the Board, upon learning of, or having reason to suspect, the occurrence of any prohibited harassment, will ensure that an investigation is promptly commenced by appropriate individuals.
The Board has implemented a regulation and procedures on reporting, investigating and remedying allegations of prohibited harassment. Such procedures are to be consistent with any applicable provisions contained in the Town’s collective bargaining agreements, the State Civil Service Law and other Federal and State laws on prohibited harassment. Training programs have been established for employees to raise awareness of the issues surrounding prohibited harassment and to implement preventative measures to help reduce incidents of prohibited harassment.

A copy of this Policy and its accompanying Regulations are available to all personnel and posted in appropriate places.

**Sexual and Other Prohibited Forms of Harassment Regulation**

In addition to any relevant procedures contained in the previous policy, the following regulation will implement the Town Board’s policy concerning sexual and other prohibited forms of harassment of employees.

The Equal Employment Opportunity Commission has provided a very broad definition of “sexual harassment”. The EEOC definition reads as follows:

> Sexual harassment consists of unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term of an individual’s employment,
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

An employee can be subjected to sexual harassment even by another employee, a Town Board member, or any individual who foreseeably might come in contact with the employee on Town property or at Town activities. Sexual harassment experienced by employees is not always easily recognized.
Sexual harassment may take different forms. The most obvious form is the demand for sexual favors. Other forms of harassment include:

**verbal** - lewd or sexually suggestive comments, jokes of a sexual nature, sexual propositions or threats;

**non-verbal** - displaying pornographic photographs or other objects, obscene gestures;

**physical** - unwanted physical contact such as touching, pinching, coerced intercourse, assault.

More specific examples of harassment include:

I. Unwanted sexual behavior, which may include touching, verbal comments, sexual name calling, spreading sexual rumors, gestures, jokes, leers, overly personal conversation, corning or blocking an employee’s movement, pulling at clothes, attempted rape, and rape;

II. Impeding a female employee’s work performance in, and for example, a maintenance shop, by hiding her tools, questioning her ability to handle the work or suggesting she is somehow "abnormal" for performing these duties;

III. A female in a predominantly male office subjected to sexual remarks by employees who regard the comments as joking and part of the usual work environment;

IV. Purposefully limiting or denying female employees access to work-related equipment or tools, such as computers; and

V. Teasing a male employee about his assignment to work as, for example, a secretary.

Just as sexual harassment is strictly prohibited, so is harassment on the basis of race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law. The Board is committed to providing a work environment free from all forms of prohibited harassment or intimidation.

**Definition of Prohibited Harassment:**

1. Verbal or physical conduct constitutes prohibited harassment when:
A. It is based on an applicant or employee’s race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law; and

B. This conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

2. Prohibited harassment refers to behavior that is based on a protected classification; that is not welcome; that is, or would be, offensive to a person of reasonable sensitivity and sensibilities; that fails to respect the rights of another; and that, therefore, unreasonably interferes with an employee’s work performance and effectiveness, or creates an intimidating, hostile or offensive working environment. It makes no difference if the harassment is "just joking" or "teasing" or "playful." This conduct may be just as offensive as any other type of harassment.

Specific forms of behavior that may constitute prohibited harassment include, but are not limited to, the following:

Abusive language related to an employee’s race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status, including innuendoes, slurs, suggestive, derogatory or insulting comments or sounds, threats, and jokes based on the employee’s protected status.

Use of demeaning or offensive words when referring to an employee’s race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status.

Prohibited harassment is not limited to verbal comments. Abusive written language, transmitted via e-mail or otherwise, showing or displaying offensive objects or pictures, graphic commentaries or gestures in the workplace, which unreasonably interferes with an employee’s work performance or creates an intimidating, hostile, or offensive working environment, is also prohibited.
Any **physical contact** based on an employee’s race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status that is not welcome.

**Procedures**

The Town Board shall designate a Compliance Officer to carry out the Town’s responsibilities associated with compliance with the aforementioned policy. In addition, the Board will designate a second individual for ensuring compliance with this Policy and Regulation so that employees who believe that they have been subjected to a prohibited harassment as described in this regulation will have a second avenue of complaint, if the alleged harasser is the Compliance Officer.

The Supervisor shall notify all employees of the name, office address, and telephone number of both designees. In addition, the board through this Regulation has established the grievance procedures that provide for prompt investigation and equitable resolution of employees’ prohibited harassment complaints. The Supervisor shall implement specific and continuing steps to notify employees, vendors, constituents, and prospective employees that the Town does not discriminate on the basis of sex or any other protected classification as mentioned in these regulations in its programs or activities. This notification shall include publication in: local newspapers, newspapers and magazines operated by the Town or by groups for or in connection with the Town, and memoranda or other written communications distributed to every employee.

All reports of a prohibited harassment as mentioned in these regulations will be held in confidence, subject to all applicable laws and any relevant provisions found in the Town’s collective bargaining agreements.

Consistent with Federal and State law, and all applicable provisions contained in the Town’s collective bargaining agreements, the following procedures shall be employed in handling any report, investigation and remedial action concerning allegations of a prohibited harassment as described in these regulations.
Complaints

An employee who believes that he or she has been subjected to any form of prohibited harassment is to report the incident to the Compliance Officer or the Alternate Compliance Officer. The Compliance Officer or Alternate Compliance Officer shall notify the Supervisor of all complaints. The employee can pursue his/her complaint informally or file a formal complaint.

Investigation of a Complaint

Upon receipt of a formal or informal complaint, a prompt, thorough and impartial investigation of the allegations must follow by the Compliance Officer or Alternate Compliance Officer. This investigation is to be conducted diligently. All witnesses shall be interviewed and if requested, the victim shall speak with an individual of his/her choice. Complainants are to be notified of the outcome of the investigation.

Informal Complaints

In addition to notification to the Compliance Officer or the Alternate Compliance Officer, an employee who believes that he or she has been subjected to a prohibited harassment may request that an informal meeting be held between the employee and the Supervisor. The employee may also request a meeting with another managerial employee of his or her choice. The employee shall be notified of his/her right to have a representative also attend the interview. The purpose of such a meeting will be to discuss the allegations and remedial steps available.

Depending on the avenue by which the complaint was filed, the Compliance Officer, Alternate Compliance Officer or Supervisor, each of which will be referred to as the “Manager”, will then promptly discuss the complaint with the alleged harasser. The alleged harasser shall be informed of his/her right to union or other representation. Should the alleged harasser deny the allegations, the manager is to inform the complainant of the denial and request a formal written complaint to file with his/her report to the next level of management on what has transpired to date. If the complainant submits a formal complaint, a copy of the complaint shall accompany the report with a recommendation for further action.
Should the harasser admit the allegations, the manager is to obtain a written assurance that the unwelcomed behavior will stop. Depending on the severity of the charges, the Manager may impose and/or recommend the imposition of further disciplinary action. Thereafter, the Manager is to prepare a written report of the incident and inform the complainant of the resolution. The complainant is to indicate on the report whether or not he/she is satisfied with the resolution.

If the complainant is satisfied with the resolution, the incident will be deemed closed. However, the complaint may be reopened for investigation if a recurrence of a prohibited harassment is reported. The Manager is to inform the complainant to report a recurrence of the harassment or any retaliatory action that might occur. Should the complainant be dissatisfied with the resolution, he/she is to file a formal written complaint.

If, during the Manager’s informal attempt to resolve the complaint, the alleged harasser admits the allegations but refuses to give assurance that he/she will refrain from the unwelcomed behavior, the manager is to file a report with the next appropriate level in the complaint procedure. The report is to indicate the nature of the complaint, a description of what occurred when the Manager informed the alleged harasser of the allegations against him/her, the harasser’s response to the allegations, and a recommendation that stronger corrective measures be taken. This report should be accompanied by the employee’s formal complaint.

**Formal Complaint**

Formal complaints may be submitted either to initially report any incidence of a prohibited harassment, or as a follow-p to an unsatisfactory resolution of an informal attempt to resolve a complaint. In the latter case, the formal written complaint is to be submitted to the manager originally consulted, who will then forward it to the next appropriate level of management, e.g. the Supervisor or the Town Board, for appropriate action.

The formal written complaint will consist of any appropriate forms and a copy of any applicable Manager reports. The appropriate forms solicit the specifics of the complaint, e.g. date and place of incident, description of the prohibited misconduct, names of any witnesses, and any previous action taken to resolve the matter.
The Supervisor or the Board shall take immediate, appropriate and corrective action upon a determination of a prohibited harassment. The Supervisor or the Board shall notify the complainant of any findings and action taken.

**Remedial Action**

If the investigation reveals that any prohibited harassment has occurred, appropriate sanctions will be imposed in a manner consistent with any applicable law and Town collective bargaining agreements. Depending on the gravity of the misconduct, sanctions may range from a reprimand up to and including dismissal of an employee.

Anyone subjecting complainants or witnesses to any form of retaliation will also be subject to disciplinary action in the manner prescribed by law and consistent with any applicable provisions in the Town’s collective bargaining agreements. If the investigation reveals that no prohibited harassment has occurred, or if the complainant is not satisfied with the remedial action taken after a finding of a prohibited harassment, the complainant may appeal to the next appropriate level in the complaint procedure. The appeal must include a copy of the original complaint, all relevant reports, the specific action being appealed, and an explanation of why the complainant is appealing.

**Post Remedial Action**

Following a finding of a prohibited harassment, a victim will be periodically interviewed by the appropriate Manager to ensure that the prohibited harassment has not resumed and that no retaliatory action has occurred. At the discretion of the Town, these follow-up interviews will continue for an appropriate period of time. A report will be made of any victim’s response.

**Complaint Records**

Upon written request, a complainant should receive a copy of any resolution reports filed by the Manager concerning his complaint. Upon substantiation, copies should also be filed with the employment records of both the complainant and the alleged harasser.
Investigation in the Absence of a Complaint

The Board will, upon learning of, or having reason to suspect, the occurrence of any prohibited harassment, and in the absence of a victim’s complaint, ensure that an investigation is commence by the appropriate individuals.

Compliance Officers

The Compliance Officers designated to carry out the Town’s responsibilities associated with compliance are Meg Ferris, Town Personnel Officer, 727-3200 Ext. 603 and Ray Coyne, Superintendent of Recreation, 727-5744 Ext. 26. Formal complaints may also be made to Department heads or other managers.