

Article 15
ASSIGNMENT, VACANCY AND TRANSFER

Section A. Definitions.

1. Vacancy. A vacancy shall be defined as an unfilled, permanent, funded position which the Employer seeks to fill. A position from which an employee has been laid off is not a vacancy.

2. Temporary Vacancy on Bid Assignments. Except for an employee performing Non-Bargaining Unit work, a vacancy on a bid assignment shall be defined as temporary (and not permanent) if the employee holding such assignment is scheduled to return to such assignment within six months. Such temporary vacancies shall be filled at the Employer's discretion. An employee performing work outside the Bargaining Unit shall not have any return rights to his/her bid assignment if he/she works more than six months in any contiguous 12 months performing such work.

3. Assignment. Assignment shall be defined as all positions in the class performing essentially the same duties at a work station on a shift. A work station is, e.g., a post, housing unit, ward, etc.

4. Bid Assignment. A bid assignment includes all the bid positions within that assignment, unless otherwise indicated herein.

5. Transfer. Transfer shall be defined as the filling of a vacancy or change in assignment at the employee's initiative or request.

6. Work Location. For purposes of this Article, Work Location shall have the definition provided in Article 3, Section B., of this Agreement.

7. Reassignment. A reassignment is a change of assignment of a Bargaining Unit employee effected upon the Employer's initiative.

8. Position. A position is a grouping of tasks and duties necessary to complete a function or unit of work performed by a single employee.

Section B. Right of Assignment.

Except as provided in this Article, the Employer shall have the right to assign and reassign employees within a classification at an Agency or Work Location.

If a reassignment within a Work Location involves a change of shift or days off, such reassignment will be made by reassigning the least senior employee on the shift, in the class, at the Work Location. Exceptions may be made for probationary employees, legally required or implied selective certification, and employees possessing specific training (firearms, etc.); however, such exceptions shall be made by utilizing inverse seniority among qualified

employees.

At a work location with more than one complex (e.g., Marquette) employees may be permanently reassigned across complex lines, by using inverse seniority. Except for probationary employees who are being reassigned for training, the Employer shall not make temporary reassignments across complex lines to balance daily staffing.

Non-Bid Positions: The method of assigning employees to non-bid jobs will be maintained, except as provided herein. Supervisors may consider employee preference when filling non-bid positions.

In the event management elects to establish a system of regularly rotating among non-bid positions, the Union shall be notified in advance and shall be given an opportunity to review and discuss the procedure.

In the event management elects to change a significant number of assignments, management shall notify the Union in advance and be given an opportunity to discuss the procedure. Nothing in this Article shall preclude an individual employee or his/her Union Representative from seeking information regarding his/her reassignment.

Section C. Probationary Employee Assignments.

The Union recognizes the right of the Employer to place probationary employee(s) on a shift and assignment where exposure will be maximized for training and supervision. Such probationary assignments shall be made after giving consideration to recognizably hazardous assignment locations. It is the intent that the probationary employee will not be placed in an assignment which poses an unusual risk of physical assault by prisoners. It is also the intent of this Section to insure that probationary employees, especially Corrections Officers with less than eight months of service, will receive broad experience with close supervision and training by a supervisor or experienced status employee. This assignment will in no case extend beyond the new employee's probationary period. Once an employee satisfactorily completes the probationary period, the position on the shift to which he/she was assigned will become vacant and filled on a permanent basis from the Shift Preference List; the newly statused employee will then be assigned to a shift in accordance with his/her seniority. It is the intent that, in a multiple position assignment, a majority of the positions should be filled by non-probationary employees.

The Union shall be entitled to grieve an individual probationary employee assignment, on the basis the assignment posed or poses an undue safety risk to the assigned employee, culminating in appeal to and review by the Deputy Director for the Correctional Facilities Administration, the procedures for which shall be established in secondary negotiations.

Section D. Reasonable Accommodation and Alternative Assignments.

The Employer will make every reasonable effort to grant a request for a reasonable accommodation under the Agreement to which an employee is entitled under the Americans with Disabilities Act (ADA). Where a vacancy exists, nothing shall prohibit the parties from mutually modifying this Agreement to accommodate an employee who is entitled to such accommodation under ADA, but such modification shall only occur in very unusual circumstances. The parties may also agree to modify this Agreement to provide alternative duties for employees under the Disability Management Program.

**Article 15, Part A
Transfers Between Shifts**

Section A. Department of Corrections.

An opportunity to apply for shift vacancies at a Work Location shall be given to all non-probationary employees in the classification at such Work Location. In the case where there will be a promotion, an opportunity to apply for a shift vacancy shall be given to all non-probationary employees at the Work Location within the vacancy classification, prior to such promotion.

Employees shall be selected to fill vacancies on shifts within their classification from a shift transfer list, with absolute preference given to the most senior qualified and available employee whose name has been on the list for at least 30 calendar days prior to the last date of the vacancy posting, but subject to the conditions and exceptions listed herein below.

1. An employee will be considered available if scheduled to return from annual or sick leave or an approved LOA within three weeks.
2. Employees may sign the shift transfer list at any time.
3. Such lists shall be available to the Union for inspection.
4. The date that an employee signs the shift transfer list shall be permanently recorded on said list(s) beside the employee's name.
5. The only vacancies subject to this provision are those that have been, or are intended to be, continuously staffed from the time the position became vacant until the time that the Employer seeks to fill the vacancy. Positions exceeding the authorized compliment as determined by the Custodial Staff Assignment Sheet shall not be considered as vacancies under this section.
6. A position shall be considered vacant the day after the employee holding said position has left the shift. A vacancy occurs when the right to return to the shift from a leave of absence expires.

7. Transfers shall be honored by filling the oldest vacancy first and transfer eligibility shall be determined by the list that was in effect at the time that said vacancy occurred.

8. Positions that have remained unfilled and unstaffed for a period of 12 months shall be considered a new position at the time the Employer seeks to fill the vacancy.

9. If the transfer list is absent eligible applicants at the time the vacancy occurs or if all eligible applicants refuse placement, then the vacancy shall be treated as a new position posting.

Nothing herein shall prohibit a shift trade between two employees, each of whom is most senior on the transfer list. Refusal of an offered shift transfer will result in removal for that particular shift from the list.

The Employer may assign or transfer employees between shifts out of seniority order to fill a vacancy that has a legally required or implied selective certification requirement. In addition, it may be necessary to make temporary general exceptions to this Section in order to have a balance of status personnel on each shift. Experience balancing exceptions shall not exceed six months, unless extended by mutual agreement between the parties at the local or departmental level. Before such general exceptions may be made, the Union must be notified and given the reasons as well as the duration of the exception. If seniority employees are moved to or held on a shift, all successful shift transfer requests and/or bids on positions will be honored upon completion of such period. Temporary vacancies created by the above may be filled by temporary reassignment.

For purposes of this Article, current institutional practice concerning the treatment of the day activity shift as part of, or separate from, the morning shift shall continue unless altered through secondary level negotiations.

An 8-level employee with one or more years of service, who is eligible for appointment to the E9-level, shall be eligible to transfer to an E9-level shift vacancy, if he/she fulfills the requirements of this Subsection. An E9-level employee with two or more years of service, who is eligible for appointment to the E10-level, shall be eligible to transfer to an E10-level shift vacancy, if she/he fulfills the requirements of this Subsection.

Section B. Department of Community Health.

After the R-Day and Bid Assignment Vacancy Transfer Procedure provided for in this Article have been applied, an opportunity to apply for vacancies on a shift different from their own shall be available to all Forensic Security Aides. This shall be done by using a Shift Transfer List. Non-probationary employees may submit a written request to have their name placed on this list at any time.

Such requests shall be limited to one choice of shift. Such vacancies shall be filled by the most senior qualified available employee applicant whose name has been on the Shift Transfer List for a minimum of 30 calendar days. An employee will be considered available if scheduled to return from annual or sick leave or an approved leave of absence within three weeks. Refusal of an offered shift transfer will result in removal for that particular shift from the list. Nothing herein shall prohibit a shift trade between two employees, each of whom is most senior on the transfer list. Probationary employees will be allowed to select shift vacancies by seniority order for permanent shift placement upon completion of their probationary period.

Article 15 Part B Bid Positions

Section A. Department of Corrections.

1. Employees in the classification (except as provided in Subsection 8 below) on the same shift at a Work Location will be given an opportunity to apply for bid positions. Bid positions that become vacant will be posted within 21 calendar days from the date of the vacancy (see definition in Section A.1. above) for a period of seven weekdays. Employees on other shifts will not be eligible to apply for such specific position openings. All postings will designate which shift is eligible to apply, and include such data as classification, position location, description of duties, and any special requirements or knowledge, skills, or abilities, and scheduled days off, if applicable.

2. In utilizing a transfer request to fill a vacant bid position, and only where three or more qualified and available employees have applied for a bid position, the Employer shall fill the position by selecting one of the three most senior qualified and available employees on the shift in satisfactory service status who have filed a timely application. An employee will be considered to be available if on annual or sick leave of up to three weeks from the last day of the posting. It is the intent that the selection will be based upon job-related criteria, resulting in the most qualified applicant being selected.

3. When determining whether an applicant is qualified, and when considering the top three most senior applicants, the Employer will consider the following factors:

- a. Demonstrated special knowledge, skills or abilities as announced in the posting;
- b. Physical ability;
- c. Demonstrated ability to effectively interact with residents and/or the public;
- d. Demonstrated ability to follow instructions, including security regulations.

Nothing herein shall require that the most senior applicant be selected.

4. Employees who have been placed on bid positions as a result of a successful bid may not bid on another position within 12 calendar months.

5. Bid positions will be posted at the Work Location according to Part B., Section A.1 of this Article. Employees in bid positions resulting from this Article will retain such positions until they either: Bid to another position; or are removed for the reasons listed in Part E of this Article.

Employees may be reassigned from bid positions on a daily basis to cover another position. If an employee has been reassigned from a bid job, such bid job may not be filled with a different employee for that shift.

6. Designated bid positions will only be posted and filled when such positions become vacant after the effective date of this Article. Management will retain the right to make reassignments for reasonable cause. All future vacancies that are designated as bid jobs will be filled in accordance with this Section. It will be the policy of the Employer to minimize changes in assignments.

7. Assignments will be filled from within the same classification and level except where the vacant bid position is prepatterned and preauthorized and the bidding employee meets the qualifications for that classification and any special requirements listed on the posting.

8. It is permissible to accept bids from qualified employees on the shift at a lower level for an RUO E10 bid position. However, the posting must specifically state that bids from employees at the Corrections Officer 8 or E9 level will be accepted. Bid positions must, however, be filled at the proper level when possible.

9. Bid positions at current institutions where no such bid positions are contractually established in Subsection 12 below may be negotiated in secondary negotiations at the request of either party. Such secondary negotiations may recognize local agreements heretofore reached between the parties, provided that in no circumstance shall the parties be required to agree to a number of bid positions on a shift which exceeds 20% of the total assignments on the shift.

10. The process by which the parties may reach agreement over bid positions at facilities which become operational after the effective date of this Agreement shall be subject to secondary negotiations at the request of either party. However, the Department shall have no obligation to discuss identification of such bid positions until at least one year after the facility has become fully operational. In no circumstance shall the parties be required to agree to a number of bid positions on a shift which exceeds 20% of the total assignments on the shift at such facilities.

11. When bid positions are abolished by the Employer, an equal number of

new bid positions at that Work Location may be selected in local and, if necessary, departmental Labor-Management meetings. Any agreements reached therein shall be recorded in a Letter of Understanding between the Employer and MCO.

12. The current contractually established bid jobs/positions (described in Appendix F) will remain in effect. The parties may negotiate over the identity and/or number of bid jobs/positions at facilities opened or substantially reorganized after 1996, except that the parties shall not be required to agree to a number of bid positions on a shift which exceeds 20% of the total assignments on the shift.

Section B. Department of Community Health.

1. Forensic Security Aides shall have the opportunity to apply for bid positions vacancies on their shift. Bid positions will be identified in Appendix G of this Agreement. Bid positions that become vacant will be posted within 21 calendar days from the date of the vacancy (see definition in Section A.1. above) for a period of seven weekdays. Vacancies will be filled by one of the three most senior qualified available employees who apply. An employee on sick leave for not more than three weeks from the last day of the posting will be considered available.

2. In utilizing a transfer request to fill a vacant bid position, where three or more eligible employees have requested the position, the Employer will fill the position by selecting one of the three most senior qualified available employees in satisfactory service status. When considering the top three most senior applicants, the Employer will consider the following factors:

- a. Demonstrated special knowledge, skills, or abilities;
- b. Demonstrated ability to follow instructions including security regulations;
- c. Demonstrated ability to effectively interact with residents and/or the public; and
- d. Physical ability.

3. Bid positions will be posted at the Work Location according to Part B, Section A.1. of this Article. Employees in bid positions resulting from this Article will retain such positions until they either: bid to another position; or are removed for the reasons listed in Part E of this Article.

Employees may be reassigned from bid positions on a daily basis to cover another position. If an employee has been reassigned from a bid job, such bid job may not be filled with a different employee for that shift.

- a. If determined to be not appropriate for bid position, the FSA shall be returned to his/her prior duties and responsibilities;

- b. The return to prior duties and responsibilities shall not be grievable beyond Step 3.

4. Bid positions and the procedure for filling them shall be subject to secondary negotiations. If an agency creates new, permanent job assignments to be worked the entire shift, the subject of bid positions may be addressed at agency Labor-Management meetings.

Section C. All Other Positions on a Shift.

All other positions on a shift not designated as bid positions may be filled by reassignment; recall from layoff, new hiring; reinstatement; rehire; return from leave of absence; interclassification, intra-agency, interagency, or interdepartmental transfer; placement of trainees; promotion; demotion or any other means authorized by Civil Service rules.

Section D. Temporary Reassignments on Bid Positions.

During the period in which the selection process for bid positions is being administered, the Employer may temporarily assign an employee to a vacancy to fulfill operational needs, but in no case will the process exceed 21 calendar days.

**Article 15 Part C
Scheduled Regular Days Off (RDOs)**

Section A. Department of Corrections.

At any Department of Corrections facility with fixed days off, the system for exercising preference for scheduled regular days off (RDOs), shall be as follows:

1. Prime RDOs: Any combination of RDOs which contain a Friday, Saturday or Sunday are considered as prime RDOs. Bid notices for prime RDOs with no specific work assignment will be posted on various bulletin boards at the Work Location within two weeks of becoming available. If prime RDOs are not posted for bid within two weeks of becoming available the Union shall, upon request, be given a written explanation as to the particular reasons why no posting was made. Such notices shall remain posted for a period of seven days. Prime RDO bids will be awarded by seniority (Article 13.C.) at a level within a series, with CO 8 and CO E9 considered as one level and RUO E10 and CO E9 in housing considered as a separate level. Employees will be required to have 30 days seniority on shift to be eligible to bid on any RDOs. It is not the intent of the parties to delay posting of RDO vacancies to affect the selection process. An employee on annual leave or sick leave for up to three weeks from the last day of the posting will be considered available.

It may be necessary to make temporary (four pay periods or less) exceptions to this Section in order to avoid an imbalanced distribution at RDOs during the pay period. Before such RDO balancing exception may be implemented, the Union shall be provided written notice and given the reasons

for, as well as the expected duration of, such exceptions. Such RDO balancing exception shall be applied only to Prime RDOs which do not have a specific work assignment. If seniority employees are not awarded available Prime RDOs solely because of such exception, all successful bids for Prime RDOs will be honored upon completion of such period. Bid positions for RDOs which will not be immediately filled because of this exception shall contain notice to that effect.

2. All Other RDOs: For all other RDOs employees will indicate their preference by placing their name in a book maintained by the Shift Commander. Such RDOs will be granted in accordance to seniority as described above.

At other Department of Corrections facilities with fixed days off, existing methods of assigning days off will be maintained. Management proposals to alter such methods shall be taken up in secondary negotiations. Any other changes shall be taken up in Labor-Management meetings.

Section B. Department of Community Health.

At the Center for Forensic Psychiatry, Forensic Security Aides shall have the opportunity to apply for vacancies on their shift for the purpose of securing desired regular days off.

RDOs will be divided between "prime" and "non-prime" days. Prime RDOs shall include, by shift:

1st shift: Friday-Saturday, Saturday-Sunday, Sunday-Monday
2nd shift: Friday-Saturday, Saturday-Sunday, Sunday-Monday
3rd shift: Thursday-Friday, Friday-Saturday, Saturday-Sunday

Non-prime days shall include all remaining blocks of RDOs.

- a. Prime RDOs: Prime RDOs will be posted on all units and the notice will indicate the shift. The posting will be up for 21 calendar days. The most senior employee who requests the RDOs will be assigned those days off, unless a selective certification is authorized. Where a selective certification is authorized, the most senior employee on the shift who meets or exceeds the selective certification and who requests the RDOs shall be assigned the RDOs.
- b. Non-Prime RDOs: A master list will be kept in the Security Director's office. Employees may place their names on the list via written memo indicating the RDOs in which they are interested. The most senior employee on the list for at least seven calendar days requesting the particular RDOs that are available will be assigned those days off. RDOs that become available as a result of the above assignment will be filled following the same procedure, and that method of assignment will be continued until all employee requests are met. Where a selective

certification is authorized, the RDOs shall be assigned to the most senior employee who is on the shift who meets or exceeds the selective certification requirements and whose name has been on the master list for at least seven calendar days. Employees shall have the right to request more than one combination of RDOs. The employee shall have the right to turn down RDOs when offered, without prejudicing their position on the list.

For purposes of this Article, the Forensic Security Aide series shall be considered as one class consisting of 8s and E9s. An employee on sick or annual leave for not more than three weeks will be considered available.

Section C.

Movement between RDO groups within a shift at any facility at the request of the employee(s) may be allowed, consistent with operational requirements.

Article 15 Part D Transfers Between Work Locations

Section A. Department of Corrections.

1. An employee may request a transfer for which she/he qualifies to any work location within the Department of Corrections and within the Bargaining Unit. An employee's request must be placed in writing on an appropriate form submitted to the personnel office of the facility at which the employee currently works. Personnel will affix the date of receipt, return a copy to the employee and forward the original to the Department's Central Office of Human Resources Management, which will administer and coordinate all transfers between work locations.

2. Seniority Based Transfer. To be eligible for a transfer utilizing the seniority provisions of this Section, an employee must be available to work within two biweekly pay periods, and meet the following conditions:

- a. Be non-probationary, and
- b. Have no record of disciplinary action or unsatisfactory rating during the two years preceding the date of the transfer request or during the period between the application date and the time she/he is considered for transfer, and
- c. Not have voluntarily transferred any time during the 12 month period prior to the application date, and
- d. Apply during the window period. The window period shall be May 1st through May 31st for transfers between July 1st and December 31st and November 1st through November 30th for transfers between January 1st

and June 30th. The previous transfer list shall expire at the end of each window period.

- e. The conditions in which vacancies shall be filled on the basis of seniority at existing facilities, camps and corrections centers are as follows:
 - i. Facilities or camps, with five or more vacancies during the previous six month period, shall fill the first vacancy per six month transfer period with the most senior, eligible and qualified applicant.
 - ii. Facilities or camps, with less than five vacancies during the previous six month period, shall fill the first vacancy per six month transfer period with one of the three most senior, eligible and qualified applicants.
 - iii. Corrections centers shall fill the first vacancy per six month transfer period on a regional basis by rotation, i.e., one region per six month transfer period, with the most senior, eligible and qualified applicant.
 - iv. Facilities, camps and corrections centers shall fill all other vacancies in accordance with current practice.
 - v. Employees who have resigned in lieu of dismissal shall be excluded from any transfer rights to that facility, camp, or corrections center.

3. It may be necessary, due to agreements with or commitments to the local community, to place an emphasis on new hires when filling initial vacancies at new facilities and the filling of such vacancies may deviate from this Article.

4. The parties agree to continue the current Department of Corrections practice concerning limits on transfers out of a work location based upon diminished safety and security at the work location. It is understood that such practice requires the approval of the Deputy Director of the Correctional Facilities Administration; or the Deputy Director of the Field Operations Administration for Corrections Centers. If the Department of Corrections plans to limit (freeze) transfers out of a work location, the freeze shall be discussed with the Union prior to its implementation. In the event transfers out of a work location are frozen, any transfer requests submitted and approved prior to the freeze will be honored. Any other problems associated with the freeze will be discussed by the parties to reach a mutually acceptable resolution.

5. Closer to Home Transfer. The Michigan Department of Corrections agrees to grant up to 12 transfers per calendar year to employees seeking an assignment to a facility within a 40 mile radius of their home. Those desiring such a transfer must initiate the request by submitting an application to the Michigan Corrections Organization for consideration and possible referral to the

Department of Corrections.

Eligible employees must have attained status, have not voluntarily transferred during the 12 month period prior to the application date and have no record of disciplinary action, or unsatisfactory service rating during the two years preceding the date of the filling of the position.

No more than four employees from one work location shall be eligible for transfer under this provision during a 12 month period, unless mutually agreed by management. No facility shall be required to accept the transfer of more than two employees under this provision. If all employees on the transfer list are not able to transfer to a vacancy during the year, up to three employees who were unable to transfer will be carried over, in addition to the eligible twelve, for the next calendar year.

Exceptions to these provisions may be granted on a case by case basis but only at the discretion of management.

This category of transfer shall be awarded after seniority based transfer provisions have been met but prior to all other transfer requests.

6. Exchange Transfer. The parties agree to provide for an exchange transfer of employees under the following conditions:

- a. An employee seeking a transfer to another facility, camp, or corrections center has the responsibility to find an employee in their same classification willing to exchange positions. Such request for exchange shall be in writing.
- b. The exchange transfer shall be subject to the approval or disapproval of the involved Warden(s) or Regional Administrator(s).
- c. No reimbursement under the State Travel Regulations shall apply.
- d. No other contractual provisions shall apply, except those regarding shift transfer within an institution, since a vacancy does not exist.

Section B. Transfer Interviews.

If the Employer conducts lateral transfer interviews related to this Article, an employee selected for interview shall be allowed necessary and reasonable time for such interview without loss of pay or benefits. To be eligible for such paid release time, the employee shall not have declined a reasonable offer of employment at any Work Location following a transfer interview for the classification.

Section C. Transfer Expense.

Employees transferring under the provisions of this Article shall not be entitled to reimbursement for moving, travel, subsistence or relocation expenses by the Employer, except as may be mutually agreed otherwise.

Article 15 Part E Involuntary Reassignment

Section A. Change in Shift or RDOs.

Reassignments not associated with layoffs, closing of a subdivision of a Work Location, or reorganization of a Work Location, which involve a change in shift or days off, are prohibited with the exception of the following:

1. If a reassignment within a class and Work Location involves a change of shift, a change from custody to housing, or days off, such reassignment will be made by reassigning the least senior qualified employee with Corrections Officer status, in satisfactory service standing, on the shift, in the class, at the Work Location. Exceptions may be made for probationary employees, legally required or implied selective certifications, and employees possessing specific training (firearms, etc.) utilizing inverse seniority.
2. Where an employee has been disciplined and the misconduct or action was such that continuing presence in the work unit may be detrimental to the effectiveness of the work unit or the employee.
3. Where investigated complaints from residents, visitors, recipients or staff are found to be valid and a reassignment is in the interest of effective operation and security.
4. Where the employee is not performing successfully as verified by a less than satisfactory service rating.
5. Unusual circumstances where after consultation with the Union (MCO State President/designee) it is mutually agreed that a reassignment is in the best interest of the parties.
6. The need to comply with a court order, e.g. a personal protection order. Where more than one Bargaining Unit employee is involved, the least senior employee will be reassigned, unless mutually agreed to otherwise.
7. Corrections Transportation Officers (CTOs) and SAI employees who do not meet the classification requirements may be reassigned to an RUO or CO vacancy at their parent facility, provided they are fit for the duties of the position. The warden/FOA Regional Administrator/designee and

the MCO State President/designee may agree to a reassignment to another facility. Upon written request, the employee shall have a one time right of recall to a vacancy at the employee's work location to a CTO or SAI position as appropriate when the employee meets the classification requirements. This provision shall also apply where the reassignment does not involve a change in shift or RDOs.

Section B. Reassignment Without Change in Shift or RDOs.

Reassignments from a bid position (not associated with layoffs, closing of a subdivision of a Work Location, or reorganization of a Work Location) which does not involve a change in shift or days off, is permitted under the following circumstances:

1. The employee occupies a position which is covered by the High Security Premium program. In such event, the Employer may reassign the employee after nine or more months (20 pay periods) in the bid position to a different position for no more than three months (six pay periods), after which the employee shall be returned to his/her bid position. The purpose of such reassignment is to provide the employee with cross training and exposure to a variety of facets of the operations at the Work Location.
2. The employee's performance in the particular bid position is not acceptable. Before a reassignment may be made for reasons of unacceptable performance of his/her particular bid job, the employee must have been informed of the performance standards which must be met, and must have been counseled in writing in an affirmative effort to raise the performance to the acceptable level, and the employee has continued to perform at a level below the established standard.

Such removal for unacceptable performance shall be grievable through Step 3 of the grievance procedure, except that reassignment of an employee who has served less than 90 days in the bid position shall not be grievable.

3. The Warden or Deputy Warden of the employee's Work Location has concluded that reassignment (on either a temporary or permanent basis) is necessary to restore, preserve, or enhance the effective operation of the bid-position. Such reassignment shall not be regarded as an indication of unacceptable conduct or performance, no adverse inference should be drawn from such reassignment, and such fact shall be confirmed by written documentation to the employee, with a copy in his/her personnel file. Before such reassignment is made, the employee's MCO Chapter President shall be informed of the facts (which are possible to discuss without improperly invading the employee's personal privacy) from which the Warden or Deputy draws the inference

that the reassignment should be made. Such reassignment shall not be grieved but, at the request of the Local 526-M President or Executive Director, shall be reviewed by the Director of the Administration in which the employee is employed to confirm there is a reasonable basis for the action.

Section C. Return.

If a status employee is involuntarily reassigned from his/her bid position, shift, hours of work, or has his/her fixed prime RDOs changed for reasons other than those listed in Article 15 Part E, Section A.2-5, and Section B., or layoff, that employee will have first right to that bid position, shift or prime RDOs for one year from the date of reassignment, if it becomes available to be filled as a vacancy. In the event that more than one Bargaining Unit employee is removed, return will be by seniority.

Section D. Reorganization or Permanent Transfer of Work.

The parties agree that, if operations are significantly reorganized, or Bargaining Unit work is transferred to a new or another existing facility so as to reduce the work load at the initial facility, any dispute regarding how the Sections of this Article are to be applied to such circumstances will be subject to Labor-Management meetings. Any agreements reached therein shall be recorded in a Letter of Understanding between the Employer and MCO. If agreement cannot be reached in Labor-Management meetings, such disputes shall be subject to negotiations.

**Article 15 Part F
Working Out of Class**

Working out of class was made a prohibited subject of bargaining by the Civil Service Commission effective January 1, 2002. As a result, contract language was removed from this collective bargaining agreement. Disputes regarding working out of class may be raised to Civil Service through the appeals process established in Civil Service Rules and Regulations.