

**AGREEMENT**  
**BETWEEN**  
**THE BOARD OF HIGHER EDUCATION**  
**AND**  
**THE MASSACHUSETTS TEACHERS ASSOCIATION/NEA**  
**MASSACHUSETTS STATE COLLEGE ASSOCIATION**  
**DIVISION OF GRADUATE AND CONTINUING EDUCATION**

January 1, 2018 – December 31, 2020

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## **PREAMBLE**

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

## **ARTICLE I - RECOGNITION**

### **A. RECOGNITION**

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

All persons who hold appointments during the academic year to teach one or more credit courses in the Division of Graduate and Continuing Education (hereinafter referred to as “DGCE”) at any State University, excluding supervisory and managerial personnel, all persons who teach contract courses (but only with respect to their teaching of such courses) and all other persons.

The parties recognize and agree that the Association may, in the discharge of its responsibilities hereunder, act through its affiliate, the Massachusetts State College Association, and that the Association and its affiliate are jointly and severally liable for the discharge of such responsibilities. The parties also recognize and agree that the Board may, in the discharge of its responsibilities hereunder, act through the Council of Presidents.

### **B. JURISDICTION**

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

### **C. DESIGNATION OF ADMINISTRATION**

Whenever any provision of this Agreement shall require that any act be done by the Board of Trustees, by the Board, by the Commissioner, by the President of a University or by any member of the administration of a University, such act may be done by the designee of the Board of Trustees, the Board, the Commissioner, the President or such member of the administration, respectively. Notwithstanding the foregoing, whenever, by reason of any emergency or other exigency, the Commissioner, any President, or any such member of the administration of a University is unable to do any act required to be done by said administrator, such act may be done by any person designated to do the same by the Board of Trustees, the Board or the President.

### **D. ENTITLEMENT UNDER THIS AGREEMENT**

Every member of the bargaining unit described in Article I, Section A, of this Agreement shall be entitled to the applicable benefits set forth in this Agreement. The teaching of a course offered under the auspices of the DGCE at a University is without regard to the time of day the course or instruction is offered.

## ARTICLE I – RECOGNITION

### E. STATUTORY RESPONSIBILITIES OF THE BOARDS

All management rights and functions, except those which are clearly and expressly abridged by this Agreement, shall remain vested exclusively in the Board or the several Boards of Trustees as may be provided by any applicable provision of law. Nothing contained in this Agreement shall be deemed or construed to impair or limit the powers and duties of the Board or of any Board of Trustees under the laws of the Commonwealth, which powers include the power to adopt and establish policies to the extent that such policies do not contravene any express provision of this Agreement.

### F. SUCCESSORS AND ASSIGNS

To the extent the same is permitted by law, any successor in interest to the Board or any Board of Trustees shall be bound by and shall assume all the rights, duties and obligations of its predecessor in interest as if such successor were a named party and signatory to this Agreement.

### G. DEFINITIONS

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

1. Academic Year. “Academic year” shall mean the twelve (12)-month period commencing on September 1 and ending on the ensuing August 31.
2. Contract Course. “Contract course” shall mean any course which is offered by or through an entity other than a University, and/or which is initiated and funded in whole or in part by an entity other than a University, and the criteria for admission to which are established for a defined population by agreement between a University and an entity other than a University. A course shall not be a contract course if, by the terms of such agreement, enrollment in it is available generally to the public or to persons who are otherwise enrolled as matriculated students at such University. The enrollment of any such student in what is otherwise a contract course shall not cause it to cease to be a contract course if the student who is enrolled in it is a member of the defined population for which the course has been established. Regular tuition reimbursement programs shall not, as such, cause a course to be a contract course.
3. Course. “Course” or “credit course” shall mean a course that is offered by a University and for which any of those who enroll in it earn academic credit and without regard to the time of day the course or instruction is offered.
4. Course Materials. “Course materials” shall mean lectures, exercises designed for online collaboration, multimedia developed for web distribution, notes, outlines, syllabi, bibliographies, tests, instructional handouts, videotaped presentations and any like materials and documents (whether in an electronic or other medium) that a member of the bargaining unit authors or creates in connection with the preparation or teaching of a course at a University.



## ARTICLE I – RECOGNITION

5. DGCE Chair. “DGCE Chair” shall mean that person, whether denominated DGCE chair, program coordinator, program manager or otherwise, who manages, within or in conjunction with a department or program area at a University, either an undergraduate program in continuing education, a program of graduate education, or both.
6. Graduate Course. “Graduate course” shall mean a course offered for graduate academic credit and approved as a graduate course by the appropriate Dean and by the President in accordance with general University procedures for approving such courses; provided only that when a course so offered and approved is described in any official bulletin or other such publication of the Division of Graduate and Continuing Education as a course that is offered for both graduate and undergraduate academic credit, it shall be deemed to be a graduate course if not fewer than fifty percent (50%) of the students enrolled in the course are enrolled in it for graduate academic credit. For purposes of the preceding proviso, the enrollment in a course shall be determined at the end of the period during which students are permitted to enroll in courses at a University. Whenever any course so offered and approved is described in any official bulletin or other such publication of the Division of Graduate and Continuing Education as a course that is offered only for graduate academic credit, it shall, notwithstanding the proviso in the first sentence of this paragraph, be deemed to be a graduate course even if undergraduate students have been permitted, in any one or more instances, to enroll in it for undergraduate academic credit; and, further, whenever any course is described in any official bulletin or other such publication of the Division of Graduate and Continuing Education as a course that is offered only for undergraduate academic credit, it shall, notwithstanding the proviso in the first sentence of this paragraph, not be deemed to be a graduate course even if graduate students have been permitted, in any one or more instances, to enroll in it for graduate credit.
7. Intellectual Property. “Intellectual property” shall mean a legally cognizable interest in a work or creation of whatever kind, including a copyright or patent.
8. Terminal Degree. “Terminal degree” shall mean the degree of Doctor of Philosophy (Ph.D.), the degree of Doctor of Education (Ed.D.), the degree of Doctor of Social Work (D.S.W.), the degree of Doctor of Nursing Science (D.N.S.), the degree of Doctor of Business Administration (D.B.A.) , the degree of Doctor of Library Science (D.L.S.) or an equivalent doctoral degree, including the degree of Doctor of Library Science and Information Science (D.L.S.I.S.), accredited by the American Library Association, or such other doctoral degree (doctorate), other than the degree of Juris Doctor (J.D.), as is granted in and with reference to any specialized discipline or field of learning; provided, however, that a degree other than a doctorate may, at any University, be deemed to be a terminal degree for the purposes of this Agreement whenever the Board of Trustees of such University recognizes any such degree as one customarily regarded by members of any learned profession or field of learning as the final degree qualifying any person for the practice of such profession or for recognition

## **ARTICLE I – RECOGNITION**

within such field of learning, but only to the extent that the holder of any such degree other than a doctorate is employed as a member of the bargaining unit to teach within the scope of such profession or such field of learning. For those faculty whose area of teaching is primarily in creative and performing arts courses (as distinguished from such courses as art history and musicology) the degree of Master of Fine Arts (M.F.A.) shall be deemed to be a terminal degree when a bargaining unit member who holds such degree has earned not fewer than sixty (60) hours of graduate credit, including the hours of credit for which such degree was awarded, in the creative or performing discipline in which he or she holds such degree; provided that such credits shall have been earned at an institution or institutions accredited at least to the level of such degree in the discipline in question.

For faculty in the Engineering Department at the Massachusetts Maritime Academy, the Master of Science in Engineering (M.S.E.) shall be deemed to be a terminal degree when a bargaining unit member who holds such a degree also holds a Professional Engineering License.

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

### A. FAIR PRACTICES

1. As sole bargaining agent, the Association shall continue its policy of accepting into membership all eligible persons in the unit without regard to age, race, color, creed and religious creed, national origin, ancestry, sex, marital status, sexual orientation, veteran's status, disability, genetic information, or membership or non-membership in any political or ideological organization. The Association shall represent equally all members of the bargaining unit without regard to membership or participation in the activities of any employee organization.
2. The Board and the Boards of Trustees agree to continue their policy of non-discrimination against any person on the basis of age, race, color, creed and religious creed, national origin, ancestry, sex, marital status, sexual orientation, veteran's status, disability, genetic information, membership or non-membership in any political or ideological organization or participation in or association with the activities of any employee organization.
3. Moreover, the Association agrees to cooperate with the Board in the implementation of the Affirmative Action Program for the State Universities in effect on the date of execution of this Agreement; provided, however, that nothing herein contained shall be deemed to prohibit the Board from amending such Program from time to time for the purpose of causing it to conform with any applicable state or federal law, any applicable rule or regulation made thereunder, or any applicable order or directive issued by any agency, including any court, having authority therein.
4. The parties to this Agreement are committed to a policy of affirmative action and non-discrimination. One purpose of the policy is to provide for equal access and equal opportunity through the recruitment and hiring of minorities, women and the disabled.
5. The parties support a policy of non-discrimination in all personnel actions.
6. The parties mutually condemn any conduct that inflicts sexual harassment upon any member of the University community. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment for this purpose when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or of his/her academic status or entitlements, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions that affect such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile or offensive academic or working environment.
7. The parties agree that no provision of this Section A shall be deemed to create, or to confer on any person, any right enforceable under the terms of this Agreement,

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

it being the common and agreed understanding of the parties that the public policies to which they hereby pledge themselves are properly established and enforced through mechanisms other than those pursuant to which the terms of this Agreement have been entered into and pursuant to which they may be enforced.

8. The Universities will provide training to assist DGCE faculty members to recognize and avoid discriminatory conduct and to explain to them the employer's expectations concerning the prohibition of discriminatory behavior. The parties acknowledge that Federal and state law and regulations will require the institutions to compel the attendance of all employees at certain types of training. The Association will encourage unit members to attend and avail themselves of training opportunities.

### B. INDIVIDUAL CONTRACTS

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

### C. CONSULTATION

#### 1. Employee Relations Committee

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

The purpose of this committee shall be:

- i. to foster good labor-management relations through the implementation of the terms of this Agreement;
- ii. to seek to resolve, consistent with this Agreement, problems or disputes arising under this Agreement;
- iii. where appropriate, to seek the resolution of grievances consistent with the terms of this Agreement; and
- iv. where appropriate, but subject to the provisions of this section, to enter into mutual agreements to effectuate the terms of this Agreement.

Anything herein contained to the contrary notwithstanding, no person or body

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

referenced in this Section C shall have the authority to alter, amend, extend or revise any term of this Agreement.

The Association (acting by the MSCA) and the Board (acting by the Council of Presidents) shall each designate a spokesperson who shall be the authorized agent of each party in the discharge of its responsibilities under this section.

Meetings of the Employee Relations Committee will be conducted at least four (4) times annually and, otherwise, at the call of either party acting by its spokesperson. Special meetings shall be scheduled at mutually agreeable times, but not later than five (5) working days from the date of receipt of a request therefor. Requests for special meetings may be made orally or in writing by the spokesperson of either party to the other and shall specify the reasons for which such special meeting is requested.

The spokesperson of the Association shall serve and preside as Chair at the first meeting; thereafter, the chair will alternate between the spokesperson of the Association and the spokesperson of the Board. The Chair will designate an individual to take minutes of the meeting.

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

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

The Committee may sponsor and arrange for a contract orientation meeting to be held at one of the Universities. Each Chapter President and a person appointed by him or her and two persons from and designated by the President of each University shall be invited to attend as the representatives of each University.

### **2. Consultation**

The President of each University and the Chapter President shall meet at least once in each of the fall and spring semesters if requested by the President of the University or by the Chapter President for the purpose of maintaining and improving relationships. Each such meeting shall be held within ten (10) days of such a request having been made in writing by one party to the other, which request shall state the reason or reasons for which such a meeting is to be held.

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

### **D. INFORMATION**

The Board (acting by the Council of Presidents) shall make available to the Association, upon the written request of the Association or of the President of the MSCA and within a reasonable time thereafter, such statistics and information related to the collective

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

bargaining unit in its possession as are necessary for the implementation of this Agreement. It is understood that this shall not require the Board to compile information and statistics in the form requested unless already compiled in that form, or to supply any information deemed by the Board to be confidential.

Whenever the employer receives a public records request from parties other than a state agency that involves information that identifies a bargaining unit member, the employer will notify the Association prior to release of the records.

### ARTICLE III - ASSOCIATION SECURITY

#### A. DUES CHECK-OFF

The Association shall be permitted authorization for payroll dues deductions as set forth in Appendix A.

#### B. This section is intentionally left blank.

#### C. CONTRACT COURSES

From and after September 1, 2008, the number of contract courses offered by any University in any academic year shall not, as a percentage of the total number of DGCE courses (including all contract courses) that such University offers, exceed fifty percent (50%). Such percentages are calculated using the formula (number of contract courses) ÷ (number of contract courses + number of courses) = .xx = xx%.

#### D. ASSOCIATION USE OF FACILITIES

The Association shall be provided on each campus with a desk, chair and filing cabinet, reasonable use of an intra-University telephone, and access to the intra-University mail system, to include a separate campus mailbox, for the purpose of contract administration.

#### E. REDUCED WORKLOAD

After having received a recommendation from the President of the Association, the President of any University may reduce the workload of any official of the Association who is employed at such University and in respect of whom such recommendation is made; provided, however, that the total number of all such reductions in effect at any time within the State Universities collectively shall not exceed six (6) semester hours of credit of instruction per semester; and provided further that the Association shall reimburse the affected State University for the cost of any such reduction in workload.

#### F. ACCESS TO THE UNIVERSITY

Upon written request to the President of a University, the Association or any University-based chapter thereof shall have the right to meet at such University if appropriate facilities are available. All such requests must be received at least forty-eight (48) hours prior to the time requested for the meeting. The Association shall be charged for the use of the facility at the prevailing rate that each University charges other groups. The parties intend that this provision shall not be deemed to prevent the reasonable scheduling of Association meetings or to permit interference with normal University affairs.

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

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

### **A. ACADEMIC FREEDOM**

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

Teachers are entitled to full freedom in research and in the exhibition, performance, and publication of the results of their research, and to full freedom in the classroom in discussing subject matter, most specifically in the selection of his/her course materials and in the selection of textbooks and other reading materials. The teacher is entitled to discuss controversial issues. It is recognized that a professional's obligation, as both teacher and scholar, is to present various scholarly opinions and to avoid presenting totally unrelated materials, that being fundamental to the advancement of truth.

Each member of the bargaining unit has the right to determine the amount and character of the work and other activities pursued outside the University provided that such work and other activities do not interfere with the discharge of responsibilities under the terms of this Agreement.

### **B. ACADEMIC RESPONSIBILITIES**

Academic freedom carries with it correlative responsibilities.

Members of the bargaining unit have the responsibility to their colleagues and the University community to preserve intellectual honesty in their teaching and research. Each member respects the free inquiry of associates and avoids interference in their work.

The parties recognize that adherence to the complementary concepts of academic freedom and academic responsibility will most nearly ensure that the greatest contributions to the several Universities will be made by their most valuable resource, the faculty. The college or university teacher is a citizen and a member of a learned profession affiliated with an educational institution. When speaking, writing or expressing themselves in any other fashion as a citizen, faculty should be free from institutional censorship or discipline, but this special position in the community imposes special obligations. As persons of learning affiliated with an educational institution, faculty should remember that the public may judge their profession and institution by



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

their utterances. Hence, faculty should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate when they are not an institutional spokesperson.

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

## ARTICLE V - USE OF UNIVERSITY FACILITIES

### A. FACILITIES IN GENERAL

Recognizing the fact that many activities of the various Divisions of Graduate and Continuing Education occur away from the University campuses and will continue to do so because of the nature of the services these operations provide, the parties agree that the following provisions apply only to the actual University campuses and not to any area or building which is leased or otherwise available to the University but not under the complete control of the University.

### B. FACILITY USE AND SERVICES

The Board shall make reasonable efforts to provide for members of the bargaining unit at each University:

1. Existing furnished employee lounges, restrooms and eating facilities.
2. Existing assigned space and equipment necessary to carry out unit members' assigned duties; each University shall establish the means by which unit members are afforded opportunities either to make or to have made copies of documentary materials needed in connection with the performance of their duties as such; provided only that nothing in this provision shall be deemed to require a University to keep its own copying facilities open or available during any particular hours of the day. The Dean shall inform the Chapter President concerning such means within sixty (60) days following the date of execution of this Agreement and from time to time thereafter whenever any change is made therein.
3. Existing telephones where currently operating.
4. Existing custodial, secretarial and technical assistance.
5. Access to the intra-University mail system; and each University, at a central or departmental location (as the University may determine), shall provide a mailbox to any unit member who requests one.

The University shall make such arrangements as it thinks appropriate from time to time to cause departmental or other academic communications that pertain to members of the bargaining unit to be published or otherwise communicated to them.

Each University shall provide University email addresses and access to the email system for members of the bargaining unit at the appropriate stage in the hiring process and during instructional periods when they are teaching at the University. The University shall offer the email address so long as the unit member's name is included in the Continuing Education Pool. The University may provide all notices required under this Agreement and otherwise necessary to communicate with members of the Continuing Education Pool by email sent to the member's

## ARTICLE V - USE OF UNIVERSITY FACILITIES

University email address in accordance with the University's policy. Members of the Continuing Education Pool are responsible for retrieving email regularly.

In addition to the aforementioned, the Board agrees to make available to unit members access to their work areas on the same basis and to the same extent as such access is made available to other University employees, subject, however, to applicable Board policy, rules and regulations governing access to University facilities.

### C. PARKING

The Board shall provide and maintain at each University properly surfaced parking facilities without cost for members of the bargaining unit, such parking facilities to be located as close as is practicable to the appropriate teaching and/or work areas of bargaining unit members. The Board further agrees that the number of designated unit member parking spaces shall be at least equal to the number of parking spaces presently used by bargaining unit members.

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

At those Universities where on the date of execution of this Agreement there exist secured parking facilities for the use of bargaining unit members, rules and regulations pertaining to such facilities in effect on the date of execution of this Agreement shall not be altered or amended without the prior agreement of the Association.

Notwithstanding the foregoing, there shall be reserved at each University preferred parking spaces for those unit members who are disabled or otherwise disabled, in accordance with the provisions of Chapter 151B of the General Laws of the Commonwealth.

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

The University agrees to cause to be towed unauthorized vehicles parked in such designated facilities.

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

## ARTICLE V - USE OF UNIVERSITY FACILITIES

### D. CONSULTATION

The President of the University shall consult with the Chapter President, or the latter's designee, prior to making any significant alterations to the level of existing facilities or services listed herein and currently in use by unit members.

### E. SAFETY PROCEDURES

In accordance with applicable state or federal law, unit members shall not be required to work under unsafe conditions whenever reasonable attempts by both parties have failed to redress the complaint.

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

### F. RIGHTS TO INTELLECTUAL PROPERTY

Unless a member of the bargaining unit and a University otherwise agree, a unit member who creates intellectual property in any book, monograph, academic paper, article, course materials, musical composition, work of art, dissertation, thesis, software program, or like material, shall own and hold all rights to such intellectual property; provided, however, as follows:

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

### G. MONITORING OF ELECTRONIC COMMUNICATIONS

1. The parties recognize that a substantial portion of any information (including email and other communications and records of account usage) that is stored on a computer legally constitutes public records and is accessible as such to any person at any time. The Board and the Universities therefore agree to treat such information as confidential only if and to the extent that it does not constitute a public record, provided always that the Board and the Universities need not treat

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any information as confidential if the person whose confidential information it is (including any person to whom a communication has been transmitted) discloses it or otherwise disclaims its confidential nature. The Board and the Universities shall not, in an arbitrary manner, selectively record or monitor the information transmitted or stored by unit members. Nothing in this undertaking shall:

- i. constitute the Board or any University the guarantor of the privacy of any such information;
  - ii. prohibit a University from having access to such information in order, in accordance with an acceptable use policy, to (1) back up and maintain the functionality of its electronic communications systems, (2) enforce any lawful prohibition against the use of such systems for personal or commercial purposes, (3) prevent or investigate unauthorized access to such systems, (4) enforce any requirements of law, and (5) enforce any software or other licensing agreements or copyrights;
  - iii. prohibit the University from having access to such information in order to comply with a subpoena lawfully issued and enforceable, to comply with a request for public records under the Public Records Act, or to comply with any like order or requirement of law;
  - iv. prohibit the University from installing “spam” filters, firewalls, virus detectors or any like software or equipment that limits the use of or access to its electronic communications systems;
  - v. prohibit the University from monitoring and logging usage data on a routine basis, including network session connection times and end points, CPU and disk utilization for individual users, security audit trails, and network loading, pursuant to an acceptable use policy or as an incident of the troubleshooting, repair or maintenance of its electronic communications systems or the preservation or enhancement of their functionality;
  - vi. prohibit any person who is the lawful recipient of any electronic transmission or communication from making such disclosure of it as he/she chooses; or
  - vii. permit any member of the bargaining unit to alter any University’s electronic communications system (by altering, adding or deleting any software or equipment) or any University’s website or its associated links without the University’s prior written approval.
2. The provisions of acceptable use policies shall not conflict with the provisions of this Agreement; in the event, therefore, that any provision of an acceptable use policy does conflict with any provision of this Agreement, the latter provision shall prevail. Nothing in the preceding sentence shall be deemed to limit or amend the preceding paragraph of this Section G.

## ARTICLE VI - APPOINTMENT AND TERMINATION

### A. ELIGIBILITY FOR APPOINTMENT

Subject to the terms of this Agreement but otherwise at its or their sole discretion, the Board of Trustees or the President of each State University may grant appointments hereunder and terminate such appointments.

A person may be granted an appointment at any rank in keeping with the following requirements. These requirements apply to persons engaged to teach in the individual Programs of Graduate and Continuing Education at the State Universities. Exceptions to these requirements may be made for sound academic reasons in certain specialized areas and under other special circumstances with the approval of the Board of Trustees or the President as its designee. Nothing in these requirements should be construed to prohibit the appointment of an individual of exceptional talent or accomplishment who does not meet all the stated criteria. In considering candidates for exceptional appointments, the Board of Trustees or the President shall pay due regard in the alternative to: (a) evidence of the ability of the candidate to render a unique academic contribution to the University, or (b) evidence of a candidate's extraordinary competence in the area of the candidate's discipline or specialty, or (c) evidence that the discipline or specialty of the candidate does not customarily demand fulfillment of those academic degree requirements set forth by the Board as minimum criteria for appointment to each rank.

For the purposes of this Article a year of college or university teaching shall be defined as:

- i. one academic year of employment as a full-time faculty member appointed at the rank of Instructor, Assistant Professor, Associate Professor, or Professor at a regionally accredited institution of higher education; or
- ii. teaching experience equivalent to twenty-four (24) semester hours of credit of instruction at a regionally accredited institution of higher education.

Visiting Instructor: A Master's Degree from an accredited college or university in a field or discipline to be taught.

Demonstrated potential to fulfill the applicable evaluation criteria.

Understanding of the teaching and advising process and the application of teaching and advising strategies to adult learners.

For instructors appointed to teach courses in a professional area, two (2) years of appropriate professional experience is an additional requisite.

Visiting Senior Instructor: A Master's Degree from an accredited institution in the academic or professional discipline to be taught.

## ARTICLE VI - APPOINTMENT AND TERMINATION

Demonstrated potential to fulfill the applicable evaluation criteria.

Understanding of the teaching and advising process and the application of teaching and advising strategies to adult learners.

Three (3) years of appropriate professional experience in the discipline to be taught, including two (2) years of college or university teaching in the discipline to be taught.

Visiting Assistant Professor:

A terminal degree from an accredited institution in the academic or professional discipline to be taught.

Demonstrated potential to fulfill the applicable evaluation criteria.

Understanding of the teaching and advising process and the application of teaching and advising strategies to adult learners.

Three (3) years of appropriate professional experience in the discipline to be taught, including two (2) years of college or university teaching in the discipline to be taught.

Visiting Associate Professor:

A terminal degree from an accredited institution in the academic or professional discipline to be taught.

Demonstrated potential to fulfill the applicable evaluation criteria.

Understanding of the teaching and advising process and the application of teaching and advising strategies to adult learners.

Six (6) years of appropriate professional experience in the discipline to be taught including four (4) years of college or university teaching in the discipline to be taught.

Demonstrated professional advancement.

Visiting Professor:

A terminal degree from an accredited institution in the academic or professional discipline to be taught.

Demonstrated potential to fulfill the applicable evaluation criteria.

Understanding of the teaching and advising process and the application of teaching and advising strategies to adult learners.

## ARTICLE VI - APPOINTMENT AND TERMINATION

Eight (8) years of appropriate professional experience in the discipline to be taught including six (6) years of college or university teaching in the discipline to be taught.

Additional professional advancement.

The application of the foregoing criteria shall not result in a reduction in the rank of any unit member who, having taught in the Program of Continuing Education in any semester or session during the Academic Year 2008-2009, shall be appointed to teach in any semester or session subsequent to the execution date.

Nothing in the foregoing criteria shall be deemed to prohibit the University from considering an individual's demonstrated continuing scholarship, including contributions to the content and pedagogy of the discipline as evidenced by participation in and contributions to the improvement and development of academic programs or academic services at an institution of higher education, or, where applicable, by artistic or other creative activities; membership or participation in or contributions to professional organizations and societies, research as demonstrated by published or unpublished work or relevant graduate study, including work toward the terminal degree for those without the terminal degree; or relevant post graduate study for those with the terminal degree, or, for the professional, continuing study or current knowledge of said unit member's professional field.

The University may also consider other professional activities which by way of example shall include contributions to the professional growth and development of the Program of Graduate and Continuing Education, or, in the case of the professional hired to teach who is not a full-time college or university faculty member, evidence of continued growth and development in the candidate's professional field.

### B. INCLUSION IN THE CONTINUING EDUCATION POOL

1. In order to be eligible for appointment, an individual shall have been included in the Continuing Education Pool. On or before November 1 of each academic year, the University, upon request of the Chapter President, will provide a list of all persons then included in the continuing education pool.
2. In accordance with University procedures, an individual may apply for inclusion in the Continuing Education Pool by submitting an application therefor to the Dean or designee thereof.
3. Thereafter the Dean or designee thereof may, at his/her sole discretion, decide to include the name of the applicant in the Continuing Education Pool.
4. Once admitted to the Continuing Education Pool, an individual shall, subject to the provisions of Sections E and F of this Article, continue to be included in the Pool unless and until he/she shall not have taught for a period of three (3) consecutive years when measured from the end of the instructional period during which he/she last taught.



## ARTICLE VI - APPOINTMENT AND TERMINATION

5. If an individual has ceased to be included in the Continuing Education Pool because, as prescribed by subsection 4, he/she has not taught for three (3) consecutive years, he/she may, but subject to the provisions of Sections E and F of this Article, apply for readmission to the Pool in accordance with the preceding subsection 2.

### C. APPOINTMENT

1. Each University shall post and maintain on its website, in the form of a calendar or otherwise, a current notice of the dates or periods during which, for each academic year, it prepares the schedule of courses that are to be offered during the instructional periods falling within that year. Nothing in this or any other provision of the Agreement shall accord to any member of the Continuing Education Pool any entitlement to teach any particular course or to do so at any particular time, date or place; and, except as is provided in the following subsection 2, nothing in this or any other provision of the Agreement shall prescribe or limit the manner in which the Dean or any academic department or other person or unit schedules or assigns the teaching of any course.
2. Prior to the commencement of each instructional period, the DGCE Chair, or designee thereof, shall submit to the Dean all recommendations for the appointment of persons to teach courses that are offered through the department in the Program of Graduate and Continuing Education. Except in an emergency, all such recommendations shall be made only in respect of persons whose names are included in the Continuing Education Pool.
3. Upon receipt of the DGCE Chair's recommendation, the Dean shall submit to the Vice President or designee thereof the DGCE Chair's recommendation and his/her comments thereon.
4. The Vice President or designee shall forward all comments together with the recommendation of the DGCE Chair and the comments of the Dean to the President for final approval.
5. Members of the bargaining unit shall be appointed at the appropriate rank in accordance with the minimum standards set forth in the criteria for that rank, but in no case shall a member of the bargaining unit be appointed at a rank lower than the rank he/she holds at a regionally accredited four-year college or university. The Dean's decision concerning the rank at which a member is to be appointed shall be subject to review by the University's Vice President for Academic Affairs upon appeal by the member. The University's decision concerning such rank shall be final and binding, and no such decision shall be subject to arbitration under, or to any other provision of, Article X of this Agreement.
6. The terms and conditions of employment shall be stated in writing and a copy of the Uniform Letter of Appointment (Appendix C) shall be provided to the appointee. Where an appointment has been made and the doing so is otherwise

## ARTICLE VI - APPOINTMENT AND TERMINATION

feasible, efforts shall be made to issue letters of appointment at least fourteen (14) days in advance of the commencement of the instructional period; provided only that nothing in this requirement shall be deemed to impair the right of a University to cancel any appointment.

7. The term of every appointment shall be for no more than one (1) instructional period. However, the employment contract may contain a clause which in effect contracts with the unit member to work during the next instructional period, provided that it shall be subject to cancellation by either party at or before the commencement of such instructional period.
8. As promptly as is possible following the final add/drop date in each instructional period, the University shall transmit to the Chapter President either a copy of each letter of appointment issued for such period, a printout, or a comparable like compilation (electronic or otherwise) on which the equivalent information is recorded with respect to all persons to whom letters of appointment have issued for such period.

### D. EVALUATIONS

In making decisions to appoint, the DGCE Chair, the Dean, the Academic Vice President, the President and the designee of any of them may consider any available evaluations conducted in accordance with this Agreement.

### E. TERMINATION FOR CAUSE DURING AN INSTRUCTIONAL PERIOD

1. No unit member shall be disciplined or suspended without cause or terminated without just cause.
2. Whenever any unit member is suspended, terminated or otherwise disciplined, said member shall first be accorded the following rights:
  - a. The President or his/her designee shall give notice to such person of such recommended discipline; such notice shall set forth the reasons for which the discipline has been recommended, and a copy of thereof shall be sent simultaneously to the Chapter President.
  - b. Thereafter, at the written request of the person so notified, an informal hearing shall be conducted not sooner than five (5) days following the date on which such notice shall have been received by such person. Any such informal hearing shall be conducted by and before a hearing officer designated by the President or his/her designee. The person whose discipline has been recommended may be represented by a representative of the Association.
  - c. Thereafter, the hearing officer shall submit a written report to the President setting forth any finding of fact and recommendations, together with the reasons therefor, regarding the disposition of the recommendation

## ARTICLE VI - APPOINTMENT AND TERMINATION

of discipline.

- d. As soon as may be practicable thereafter, the President shall make such final decision in respect thereof as he/she deems appropriate.
3. Notwithstanding the provisions of subsection 2, whenever the President judges it necessary in order to preserve the interests of students and the integrity of the University's academic program, he/she may, after having received a recommendation from the Dean thereon, suspend a unit member with pay without first according him or her the rights described in subsection 2; provided that in any such case the Dean shall first accord the unit member an opportunity to meet and discuss the circumstances or events on the basis of which the Dean contemplates making such recommendation to the President. Any such unit member shall be accorded his/her Weingarten rights in connection with his/her attendance at any meeting the Dean conducts pursuant to this subsection 3.

Any unit member who is suspended pursuant to this subsection 3 shall be accorded the rights described in subsection 2 as promptly as is practicable thereafter. If the President, having thereafter made his/her final decision pursuant to subsection 2(d), declines to impose any discipline on the unit member, he/she shall thereupon revoke the suspension imposed pursuant to this subsection 3 and any record of the suspension shall be removed from the unit member's Official Personnel File.

4. Whenever a unit member shall have been terminated, that member shall be removed from the Continuing Education Pool at each State University upon written notice.

### F. APPOINTMENTS AND REAPPOINTMENTS

Nothing in Section E of this Article VI shall be of any application to any University's decision not to appoint (or not to reappoint) any member of the bargaining unit to teach a course.

## ARTICLE VII - STIPENDS

The provisions of this Article shall be of no application to any person except insofar as such person is a member of the bargaining unit on and/or after the date of execution of this Agreement. The stipends depicted in this Article represent minimum rates of compensation per credit hour of instruction.

### A. RANK MINIMA ADJUSTMENTS

1. Effective upon the commencement of the spring instructional period of 2018, each University shall make such adjustments to the contractual stipends as are required to implement the following rank minima:

Visiting Instructor:	\$1,353 per semester hour of credit of instruction
Visiting Senior Instructor:	\$1,375 per semester hour of credit of instruction
Visiting Assistant Professor:	\$1,423 per semester hour of credit of instruction
Visiting Associate Professor:	\$1,497 per semester hour of credit of instruction
Visiting Professor:	\$1,562 per semester hour of credit of instruction

2. Effective upon the commencement of the spring instructional period of 2019, each University shall make such adjustments to the contractual stipends as are required to implement the following rank minima:

Visiting Instructor:	\$1,381 per semester hour of credit of instruction
Visiting Senior Instructor:	\$1,403 per semester hour of credit of instruction
Visiting Assistant Professor:	\$1,452 per semester hour of credit of instruction
Visiting Associate Professor:	\$1,527 per semester hour of credit of instruction
Visiting Professor:	\$1,594 per semester hour of credit of instruction

3. Effective upon the commencement of the spring instructional period of 2020, each University shall make such adjustments to the contractual stipends as are required to implement the following rank minima:

Visiting Instructor:	\$1,409 per semester hour of credit of instruction
Visiting Senior Instructor:	\$1,432 per semester hour of credit of instruction
Visiting Assistant Professor:	\$1,482 per semester hour of credit of instruction
Visiting Associate Professor:	\$1,558 per semester hour of credit of instruction
Visiting Professor:	\$1,626 per semester hour of credit of instruction

## ARTICLE VII - STIPENDS

### B. TEACHING OF GRADUATE COURSES AND STUDENTS

Any member of the bargaining unit who teaches a graduate course shall, for the teaching of such course, be paid a stipend equal to one hundred seven percent (107%) of the stipend otherwise payable under the preceding Section A or B.

Effective at the beginning of the summer I instructional period of 2012, any member of the bargaining unit who teaches a course that is not designated a graduate course that is not designated a graduate course, as defined by Article I, §G(6), and which contains five (5) or more students receiving graduate credit, shall, for the teaching of such course, be paid a stipend equal to one hundred seven percent (107%) of the stipend otherwise payable under the preceding Section A or Section B, as appropriate.

### C. TEAM-TEACHING

Whenever two (2) or more members of the bargaining unit are appointed to team-teach a course, each shall be paid a prorated portion of the stipend otherwise payable under this Agreement for the teaching of such course. The stipend shall be at least that corresponding to the highest academic rank held by any of the members of the bargaining unit who are team-teaching such course. The percentage of the course that each member of the bargaining unit will be teaching shall be spelled out in the letter of appointment.

### D. TIME OF PAYMENT

At Universities where DGCE faculty were paid on a biweekly basis during the Fall 2011 instructional period, faculty shall continue to be paid biweekly during the fall and spring instructional periods. At Universities where DGCE faculty were not paid on a biweekly basis during the Fall 2011 instructional period, those Universities will endeavor to pay unit members biweekly during the fall instructional period and the spring instructional period, however unit members at those Universities shall not be paid less frequently than three times during the fall and spring instructional periods. During all other instructional periods and at all of the Universities, faculty may be paid in a single installment at the conclusion of each course.

Whenever the stipend for any course is payable in more than a single installment, the first such installment shall not be payable until the unit member shall first have submitted to the Dean a countersigned copy of his/her letter of appointment and a copy of his/her course syllabus, and the last such installment shall not be payable until all course requirements, including the submission of grades, have been fulfilled. Whenever the stipend for any course is payable in only a single installment, no payment of it shall be made until the unit member shall have submitted to the Dean a countersigned copy of his/her letter of appointment and a copy of his/her course syllabus and until all course requirements, including the submission of grades, have been fulfilled.

All payments shall be made in accordance with the University's then-applicable payroll schedule and, where of application, in accordance with the Commonwealth's payroll management system (HR/CMS). Nothing in this provision shall be deemed to prohibit a University from paying compensation more frequently than is here prescribed, nor shall it

## **ARTICLE VII - STIPENDS**

prohibit a University from requiring that compensation be paid by electronic transfer directly to a bank account selected by the unit member.

### **E. PAYROLL DEDUCTIONS**

Subject to the requirements and limitations of its payroll system, each University shall permit members of the bargaining unit, by authorized payroll deduction, to cause payments to be made for and transmitted to providers of health insurance and/or retirement plans in which the Board shall have authorized members of the bargaining unit to participate.

Each University will provide to each member of the bargaining unit, at the time of his/her first appointment as such, the forms and information that are needed to make withdrawals, as permitted by the Omnibus Budget Reconciliation Act of 1990, from any retirement plan to which he/she must thereafter make contributions. Each University shall also provide to each member of the bargaining unit, at the time the employment contract is provided, a copy of the forms needed to authorize the payroll deduction of Association dues.

## ARTICLE VIII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

### A. WORKLOAD OF MEMBERS OF THE BARGAINING UNIT

#### 1. General Provisions

Each member of the bargaining unit engaged in undergraduate or graduate teaching shall:

- i. carry out assigned teaching workload;
- ii. prepare for classroom and/or laboratory instruction;
- iii. be available to advise students as necessary or appropriate;
- iv. provide a syllabus for each course to the DGCE Chair, the Dean of Graduate and Continuing Education, and each student not later than the first class meeting; in addition to the forgoing, for courses that are three (3) weeks of duration or less, make the syllabus available to students, DGCE Chair and DGCE Dean at least seven (7) days before the first day of class;
- v. order books for each course in accordance with University procedure;
- vi. upon request, submit exam samples and/or other appropriate materials to the Dean;
- vii. participate in the evaluation process;
- viii. abide by the written academic policies of the University; and
- ix. attend an orientation program (if a new member of the bargaining unit), which an Association representative shall be invited to attend, and a reasonable number of other meetings as scheduled by the DGCE Chair, the Dean of Graduate and Continuing Education, or the Vice President.

Subject to the foregoing provisions, unit members may participate voluntarily in DGCE-related co-curricular activities, student orientation periods and registration periods.

Solely for purposes of the Affordable Care Act one (1) semester hour of credit of instruction shall be equal to two and three-quarters (2.75) hours of work.

#### 2. Teaching Workload

##### a. Limitation

The President, at the President's sole discretion and without constraint of any prior practice, shall determine whether and to what extent the

## ARTICLE VIII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

University shall place limits on the number of courses permitted to be taught by any person or class of persons who are or may be engaged to teach in DGCE.

b. Calendar

The academic year shall commence on September 1 and end on the August 31 following. At each University, the teaching workload of unit members shall be assigned on the basis of an academic calendar that shall be divided into instructional periods, two (2) of which shall generally coincide with the fall and spring semesters at such University and a third of which shall be one (1) or more summer sessions. Other instructional periods may be established from time to time by the University.

c. Additional Contributions

As professionals, members of the bargaining unit may make additional contributions for the benefit of students and the University community. Nothing in this paragraph shall be deemed to prohibit the scheduling of student registration on instructional days during which classes are regularly scheduled.

3. Course Advising and Student Assistance

During an instructional period, every unit member shall provide course advising and assistance to students enrolled in the unit member's own courses.

4. Scheduling

a. General

The assignment of specific courses, times, sites and schedules shall be recommended to the Dean by the DGCE Chair or the designee thereof and shall be subject to the approval of the Vice President or the designee thereof; the DGCE Chair or the designee thereof may also make recommendations to the Dean concerning class sizes. Whenever possible, the unit member shall be consulted prior to the making of any such recommendation.

Notice of the cancellation of the course or section shall be sent by the Dean to the unit member's University email address no later than the commencement of the first class.

b. Prior Scheduling and Cancellation of Classes

If the Dean has determined that a course or section shall be cancelled, the Dean shall promptly notify the unit member assigned to teach such course or section.



## ARTICLE VIII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

Notice of the cancellation of the course or section shall be sent by the Dean to the unit member's University email address no later than the commencement of the first class.

In the event that a course is cancelled after the first class meeting, the unit member(s) assigned to teach the class shall be paid an amount equal to the proportion of the unit member's rate of compensation (as fixed by Article VII) that the number of classes actually taught represents in relation to the number of classes scheduled for the entire session.

c. Equivalencies

For the purpose of assigning teaching workload to members of the bargaining unit pursuant to the provisions of this Article, a "semester hour of credit of instruction" shall mean not more than a fifty (50)-minute period nor less than a forty-five (45)-minute period of classroom instruction for one (1) fifteen (15)- or sixteen (16)-week semester or the equivalent (inclusive of weeks during which examinations are given) by a member of the bargaining unit in a lecture, recitation or seminar or such number of contact hours as is the equivalent of the same, as is hereinafter provided, in modes of instruction that require longer periods of time. Whenever multiples, including fractional multiples, of such fifty (50)-minute periods are used at any University, a "semester hour of credit of instruction" shall, in any event, mean a forty-five (45)- to fifty (50)-minute component of such multiple or fractional multiple. (Lecture, recitation and seminar courses at Framingham State University shall be deemed to carry four (4) semester hours of credit of instruction.) For the purposes of this Article, a "contact hour" shall mean a sixty (60)-minute period; provided, however, that when two (2) or more contact hours are scheduled consecutively for any mode of instruction that is measured with reference to contact hours, then the last contact hour so scheduled shall be a fifty (50)-minute period. Such equivalent modes shall be computed as follows:

**ARTICLE VIII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS**

<u>Mode of Instruction</u>	<u>Contact Hours</u>	<u>Equivalent to</u>	<u>Semester Hours of Credit of Instruction</u>
Laboratory Instruction	1		0.67
Physical Education: Activities Courses	1		0.50
Shop Instruction	1		0.67
Studio Instruction	1		0.67
Critique	1		1
Nursing/Allied Health Clinical	1		0.67

	<u>Number of Students per Course</u>	<u>Semester Hours of Credit of Instruction</u>
Cooperative Education	1	0.17
Field Work Supervision and Internships	1	0.33
Independent and Directed Study (3 or 4 credits)	1	0.25
Independent and Directed Study (1 credit)	1	0.083
Teacher Education Practicum/Internship Supervision	1	0.50
Honors Thesis Supervision <sup>1</sup>	1	0.33
Graduate Thesis Supervision <sup>1</sup>	1	0.33
Course by Arrangement (3 or 4 credits)	1	0.3
Course by Arrangement (1 credit)	1	0.1

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<sup>1</sup> This item shall apply to the supervision of a thesis when such supervision is provided independently of the teaching of a course of which the thesis is a part.

## ARTICLE VIII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

Providing the University first has offered a course for enrollment, in the event that the University determines, in its discretion, that there is insufficient enrollment for the course to run with the payment of the usual stipend to the instructor, the University may propose to offer the course as a “course by arrangement.” The instructor may agree to teach the course by arrangement with the payment to the instructor of no less than the stipend amount in the table, above.

### 5. Syllabus

The syllabus for each course shall contain a description of the use, if any, that the instructor intends to make of email and other forms of electronic communications/resources in the course. The syllabus is to conform to University and DGCE guidelines, if any.

### B. MAKE-UP

In the event it is necessary for a unit member to cancel a scheduled class meeting, he/she shall reschedule the class or provide an alternative method of instruction to fully compensate for the instruction missed.

### C. EMERGENCY CANCELLATIONS

In the case of an emergency, including inclement weather, no unit member shall cancel a class without the prior approval of the Dean. In the event a class is cancelled, Section B of this Article VIII shall be implemented.

### D. COMPENSATORY ADJUSTMENT FOR EXTRAORDINARY WORKLOAD

When a member of the bargaining unit agrees to perform additional unit work to assist the department or University due to another member's sickness, injury or other unanticipated absence, then each of the unit members shall be compensated, consistently with his/her academic rank, in proportion to the portion of the course that each teaches.

The University shall notify the Chapter President of such additional unit work as soon as practicable.

## ARTICLE IX - EVALUATIONS

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

No written materials shall be used in the conduct of any evaluation pursuant to the provisions of this Article IX except such materials as shall have been submitted at the commencement of the evaluation in accordance with the provisions of Section E hereof. Every member of the bargaining unit who is the subject of any such evaluation shall be entitled to copies of all such materials. Under no circumstances shall an incidental observation of any unit member be used in whole or in part in conducting an evaluation pursuant to the provisions of this Agreement.

### A. CRITERIA FOR EVALUATIONS

#### 1. Criteria for the Evaluation of Members of the Bargaining Unit

The following criteria shall be used in the evaluation of all members of the bargaining unit:

- i. teaching effectiveness in lectures, seminars, internships, independent studies and otherwise;
- ii. course advising, as it is prescribed in Section A(3) of Article VIII; and
- iii. other instructional obligations, as they are prescribed in Section A(1) of Article VIII.

#### 2. Application of the Criteria

The foregoing criteria are to be used as a measure with reference to each instructional period in respect of which an evaluation is being conducted. The overall evaluation of each member of the bargaining unit will be based upon the entire professional performance of the unit member, as it pertains to the foregoing criteria, during each such instructional period and, in the conduct of any such evaluation, regard may properly be had to evaluations conducted in respect of any prior review period or periods.

The basis for every evaluation shall be professional quality demonstrated with reference to each of the applicable criteria.

### B. FREQUENCY OF EVALUATIONS

Every unit member shall be evaluated during the first instructional period of teaching in the Program of Graduate and Continuing Education. Thereafter, each member of the bargaining unit shall be evaluated during the instructional period in which the unit member is teaching any sixth subsequent course in the Program of Graduate and Continuing Education. Nothing in this paragraph shall require the evaluation of a member of the bargaining unit more frequently than once in any academic year unless the

## ARTICLE IX - EVALUATIONS

Vice President shall require one (1) or more frequent evaluations in the case of any such member of the bargaining unit.

Every member of the bargaining unit shall have the right to be evaluated upon written request to the President, or designee thereof; provided, however, that this right shall not be exercised more than once in any academic year.

### C. REVIEW PERIODS

For the purpose of this Article IX, the phrase "review period" shall mean the instructional period or periods during which occurred the performance that is the subject of an evaluation.

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

The following written materials shall be used in the conduct of evaluations. Any member of the bargaining unit who is subject of any evaluation shall be entitled to copies of all written materials used in the conduct of such evaluation.

#### 1. Student Evaluations

Student evaluations shall be completed in accordance with procedures specified in Appendix D-1. Student evaluations shall be used giving due consideration to the number of courses and sections taught during the review period and for which student evaluations are available; whenever in any such course or section such evaluations are completed by fewer than forty percent (40%) of the students enrolled at the time the evaluation was conducted, consideration shall also be given to the limited reliability the evaluations may have. The parties recognize and agree that student evaluations should be used, to the extent possible, to discern the pattern or patterns evidenced with reference to teaching effectiveness; provided, however, that nothing herein contained shall be deemed to prohibit the making of any recommendation or the taking of any personnel decision merely by reason of the short duration of any unit member's service at a University.

The parties agree that no student evaluation conducted pursuant to the provisions of this Article shall be published or conveyed to any person save in accordance with the provisions of this Article or of Article XI.

Before the end of each instructional period, the DGCE Chair or a designee thereof shall obtain student evaluations of the classroom effectiveness of each member of the bargaining unit in every section of every course taught through such department.

A summary of the student evaluation results of each unit member shall be provided to such unit member as soon as practicable following the conclusion of the instructional period to which it pertains.

Nothing in this subsection 1 shall be deemed to prohibit the use of student

## ARTICLE IX - EVALUATIONS

evaluation forms that have been rendered in a computer-readable (opscan) format; nor shall it be deemed to prohibit the compilation, whether by computer or otherwise, of summaries of student evaluations and the results thereof in respect of each unit member; provided, however, that no member of the bargaining unit shall be given any negative evaluation by sole reason of the fact that student evaluations, as revealed by any such summary, are less favorable than those of some other member or members of the bargaining unit; nor shall it be deemed to prohibit the electronic distribution and retrieval (through secure sites) of student evaluation forms; provided only that prior to implementing any form of electronic distribution and retrieval of student evaluation forms at any University, representatives of the University and the Association shall meet to ensure that the electronic distribution and retrieval format possesses the appropriate security measures, including passwords and authentication.

### 2. Classroom Observations

Whenever deemed appropriate the DGCE Chair and/or the Dean may observe the class or classes of any unit member for the purpose of evaluating teaching effectiveness. Said evaluation shall be conducted in accordance with the procedure set forth in Appendix D-2 (a) or D-2 (b). Prior to the conduct of any such observation, the member of the bargaining unit shall meet with the DGCE Chair or Dean in order to provide the Chair or Dean with a plan of the class to be observed and any materials intended to be used in class.

### 3. Comprehensive Resume

Each bargaining unit member shall use the resume form set forth in Appendix D-3 and shall ensure that there are, in the Official Personnel File, current official transcripts of the unit member's course work.

### 4. Course Documents

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

### 5. Other Relevant Materials

In addition to the foregoing, there shall be considered in the conduct of an evaluation any other relevant materials and information submitted by the unit member being evaluated, by the DGCE Chair of any department through which the unit member is teaching any course, by the Dean and/or by the Vice President. Such information and/or material shall include any written self-evaluation submitted by the unit member.

## E. PROCEDURES FOR THE CONDUCT OF EVALUATIONS

Whenever a unit member is evaluated, said evaluation shall be conducted by the DGCE

## ARTICLE IX - EVALUATIONS

Chair of each department or program area through which the course is being taught.

### 1. Submission of Materials

Prior to the commencement of an evaluation, every unit member shall submit to the Chair all those materials intended to be considered in the conduct of such evaluation. Included among those materials shall be the unit member's current comprehensive resume and course documents.

### 2. Evaluation by the DGCE Chair

The DGCE Chair shall conduct an evaluation of the unit member on the basis of the criteria set forth in subsection 1 of Section A, using the form set forth in Appendix D-4.

After completion of the evaluation, the DGCE Chair, or the designee thereof, shall transmit a copy to the unit member, who shall have the right to submit a written response thereto within ten (10) calendar days after its receipt.

Thereafter, the DGCE Chair shall submit to the Dean a written report of the evaluation together with all written materials used in the evaluation and any written response submitted by the unit member. This report, signed by the DGCE Chair, shall state that the procedures herein prescribed have been complied with.

### 3. Role of the Dean

The Dean shall thereafter take such action with respect to the evaluation as the Dean deems appropriate.

### 4. Evaluation of a DGCE Chair's Teaching

Whenever in connection with the teaching of any course any DGCE Chair is required to be evaluated in accordance with the procedures of this Section E, the DGCE Chair being evaluated shall, in the manner otherwise described in subsection 1 hereof, submit to the Dean the materials there described, and the Dean shall conduct the evaluation in the manner otherwise described in subsection 2 hereof. Nothing in this subsection 4 shall be deemed to limit or impair the authority accorded the Dean by subsection 3.

## F. ANONYMOUS COMPLAINTS

The parties agree that the Policy on Handling Anonymous Complaints, which Policy, with the attached Memorandum of Agreement made the 3rd day of December of 1996, is annexed to this Agreement as its Appendix F, shall be of full force and effect as a part of this Agreement from and after the date of execution thereof.

## **ARTICLE IX - EVALUATIONS**

### **G. EFFECTIVENESS OF PRIOR EVALUATIONS**

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



## ARTICLE X - GRIEVANCE PROCEDURE

### A. INTRODUCTION

The Board and the Association recognize that Chapter 150E, Section 8, of the General Laws provides a mechanism for arbitration of disputes between the parties to a collective bargaining agreement and further provides that the parties to an agreement may establish an independent grievance procedure culminating in final and binding arbitration. It is the intent of the parties to this Agreement to use their best efforts to encourage the informal and prompt settlement of grievances which may arise between the Association or a member or members of the bargaining unit and the Board. Therefore, the parties agree, for themselves and for all those whom they represent, that they shall use the procedures set forth in this Article, and no other procedures, for the resolution, strictly pursuant to the terms of this Agreement, of all disputes involving the interpretation of this Agreement and of any other matter that is or may become the subject of a grievance as hereinafter defined.

### B. DEFINITIONS

1. Grievance. A grievance is an allegation by the Association or by a member or members of the bargaining unit that an express provision of this Agreement has been breached in its application to it, a member or members. The Association may seek resolution of a grievance only if initiation of the procedure for such resolution has been duly authorized by the Association and so certified by its President or expressed designee. A grievance shall aver all the known facts material to the alleged breach on which the grievance is based, including the date when such breach is alleged to have occurred and the specific contractual provisions alleged to have been breached, and shall set forth the remedy requested.
2. Grievant. Grievant shall mean the Association or any member or members of the bargaining unit, as the case may be, who, pursuant to the terms of this Agreement, seeks resolution of a grievance.
3. Day. For the purposes of this Article, day shall mean a calendar day, exclusive of December 24th through January 2nd. Deadlines falling on a Saturday, Sunday or a legal holiday are moved to the next business day.

### C. PROCEDURES FOR FILING A GRIEVANCE

The Association or any member or members of the bargaining unit having a grievance shall seek its resolution only in accordance with the grievance procedures set forth in this Article.

#### 1. Extension of Certain Time Periods

The parties may agree, providing such agreement is recorded in writing, to extend any time period of the grievance procedure contained in this Article X.

## ARTICLE X - GRIEVANCE PROCEDURE

### 2. Inspection of Record

At any reasonable time during any step of these procedures the grievant shall be permitted to inspect all or any part of the grievance record, and, where appropriate, shall be permitted to make copies of all or any parts of such record.

### 3. Introduction of Evidence

- a. Within the time limits hereinafter prescribed for the initiation of Step 2 of these procedures, the grievant shall introduce all evidence in the grievant's possession and on which the grievant relies or intends to rely as supporting the grievant's claim for relief.
- b. Notwithstanding the foregoing, the grievant may introduce additional evidence for the sole purpose of rebutting any finding of fact or any determination as set forth in any decision rendered pursuant to the provisions of this Article; provided, however, that such additional evidence, if any, shall be introduced within the time period allowed for the initiation of the Step next following such decision.
- c. The President shall introduce at Step 2 all evidence in the President's possession and on which the President relied in making any finding of fact and any determination as set forth in the decision rendered pursuant to the provisions of this Article; provided, however, that nothing herein contained shall be deemed to require the President to introduce any evidence otherwise introduced by the grievant pursuant to the foregoing provisions.
- d. Notwithstanding the foregoing, the grievant, the President, or the Chair of the Council of Presidents may introduce any evidence material and relevant to the grievance the existence or relevance of which he/she did not and should not have known at the times otherwise provided herein for the introduction of evidence.

All evidence introduced pursuant to the foregoing provisions shall form a part of the grievance record.

### 4. Request for Evidence

Whenever the grievant wishes to introduce evidence pursuant to the provisions of this Article, and such evidence is or may be in the possession of the administration, the grievant may, within the time period allowed for the initiation of the Step at which such evidence is permitted to be introduced, file with the President a written request for such evidence. Whenever such request shall have been so filed, the President shall, within eleven (11) days after the filing of such request, convey to the grievant any and all such evidence in the President's possession so requested; provided, however, that notwithstanding the foregoing, the President may refuse to convey any such evidence not deemed material and

## ARTICLE X - GRIEVANCE PROCEDURE

relevant to the grievance set forth in the grievance; and provided, further that whenever the President shall have refused to convey any such evidence, such refusal and the reasons therefor shall be communicated in writing to the grievant and shall thereafter form a part of the grievance record. Such request when so filed and such evidence when so conveyed shall form a part of the grievance record.

### 5. Notice to Association

Whenever any grievant shall have initiated the grievance procedures of this Article, or shall have proceeded to Step 2, notice thereof shall be given to the President of the Association by the person charged at such Step with resolution of the grievance.

### 6. Determination to Be Made Pursuant to Resolution of Grievance

At Step 2 of these procedures, the President shall, within the time limits prescribed, determine:

- i. whether the grievant has complied with the procedures for seeking resolution of a grievance as set forth in this Article;
- ii. whether the grievance alleges a breach of an express provision of this Agreement; and
- iii. whether an express provision of this Agreement has been breached in its application to the grievant as claimed.

### 7. Optional Electronic Filing of Grievances

- a. Step 1 and Step 2 grievances may be filed by email by the Chapter Grievance Representative, other Association officer, or an individual unit member provided that it is identified explicitly as a Step 1 or Step 2 grievance and has the appropriate case number as assigned by the chapter (consolidated grievances may be filed by email by the Grievance Committee Chair on behalf of the Association President using the wording now used to identify them as consolidated grievances).
- b. The appropriate management representative shall acknowledge receipt by email.
- c. On or before the day of the Step 1 or Step 2 hearing, the grievant shall follow up with a signed paper copy of the grievance form, which shall include the correct grievance number and any relevant documents as required by the collective bargaining agreement. The management representative shall continue to notify the Chapter President of hearings scheduled with *pro se* grievants.

## **ARTICLE X - GRIEVANCE PROCEDURE**

- d. The management grievance hearing officer at Step 1 or Step 2 may respond via email to an emailed grievance, sending it to the grievant and the Chapter Grievance Representative; and
- e. As soon as possible thereafter, the management hearing officer shall follow up with a paper copy of the decision.
- f. All other communications between the parties may be exchanged electronically, and such electronic communications shall be considered to be “in writing” or “written” provided that paper copies can be made available.

### Step 1: The Vice President (Informal)

Save as is provided in Section G, a grievant shall initiate the grievance procedures of this Article by filing with the Vice President during the term of this Agreement or an extension thereof, a written notice that a grievance exists.

The notice need only briefly describe the subject of the grievance. No such notice may be filed more than fifteen (15) days from the date of occurrence of the event upon which the grievance is based or from the date when the grievant had or should have had knowledge of the event upon which the grievance is based. The filing date required hereunder shall be deemed to have been complied with by a postmark dated within the specified time limit. Within seven (7) days after the receipt of such notice, the Vice President shall meet with the grievant and attempt to resolve the grievance. If within seven (7) days after such meeting, the grievant and the Vice President shall have failed to agree upon a resolution of the grievance, the grievant may elect to proceed to Step 2; provided, however, that nothing herein contained shall be deemed to permit the making of any such election in respect of any claim to which this Article X, by the provisions of its Section H or otherwise, is of no application.

### Step 2: The President (Formal)

If the grievant elects to proceed to this Step, then within eleven (11) days after the expiration of the period provided under Step 1 for informal resolution of the grievance, the grievant shall file with the President:

- i. a copy of the grievance; and
- ii. all documents and evidence in the grievant's possession and upon which the grievant replies or intends to rely as supporting the grievant's claim for relief.

All such documents and evidence so filed shall form a part of the grievance record.

The President shall transmit a copy of the grievance to the Employee Relations

## **ARTICLE X - GRIEVANCE PROCEDURE**

Committee, to the Chair of the Council of Presidents and, unless the Association or the Chapter President, personally, is the grievant, to the Chapter President.

The President shall meet with the grievant to discuss the grievance within twenty-one (21) days after the filing of the grievance at Step 2. The President shall consider any grievance the resolution of which shall have been sought, pursuant to the terms set forth herein, through the prior Step of the grievance procedure; provided, however, that nothing herein contained shall be deemed to confer on the President jurisdiction to consider or remedy any claim that may not be processed as a grievance pursuant to this Article X.

Within thirty (30) days after the filing of the grievance, the President shall make such determination as is prescribed in Section C(6) of this Article. The President shall render a written decision and shall set forth therein the President's determinations and the reasons therefor and the President's findings of fact, and shall provide a copy of such decision to the grievant, the Employee Relations Committee, the Chapter President and the Chair of the Council of Presidents. Such decision shall thereafter form a part of the grievance record.

If the President shall have determined that an express provision of this Agreement has been breached in its application to the grievant as claimed, the President may, consistent with the terms of this Agreement, provide any appropriate remedy for such breach. Whenever the President shall have provided any remedy deemed appropriate, such remedy shall be set forth in writing in the President's decision. Such determination when so set forth in writing shall thereafter form a part of the grievance record.

If the Association elects to proceed beyond Step 2, then within twenty-one (21) days after the expiration of the period provided under this Step 2 for resolution of the grievance, it shall file notice of such election with the President, the Chair of the Association Grievance Committee, and the designated representative of the Council of Presidents. This notice shall satisfy the requirements of Step 3 and the requirements of clauses (i) and (ii) in the first paragraph of Step 4; such notice may be filed electronically. As soon as practicable thereafter, the Association President shall follow up with a signed paper copy.

### Step 3: Mediation

If the Association elects to proceed to this Step, then following the receipt of such notice by the representative of the Council of Presidents, but not sooner than forty-five (45) days thereafter, the grievance will be addressed as soon as practicable.

The Council and the Association shall reserve, at a minimum, the first Wednesday of each month, exclusive of January and February, for mediation of grievances at Step 3. Dates shall be determined at the beginning of each fiscal year falling within the terms of this Agreement. Mediation shall be conducted on a rotating basis by Loretta Attardo, Richard Boulanger, Diane Zaar Cochran, Roberta

## ARTICLE X - GRIEVANCE PROCEDURE

Golick and such other mediators as the parties may agree. The expenses of the mediator shall be shared equally by the parties.

Both parties shall insure that their representatives in mediation have the authority to enter into a settlement.

Documents introduced before and during mediation shall be included in the grievance record. Statements made during mediation shall be off the record in order to encourage free discussion without injuring either party's case if mediation is unsuccessful. The mediator shall not testify about the mediation in any arbitration conducted under this Article X or in any other adversarial proceeding or judicial forum. Each party shall maintain the confidentiality of mediation and shall not rely on or introduce as evidence in any other proceeding:

- i. views expressed or suggestions made by the other party with respect to the possible settlement of the grievance;
- ii. admissions made by the other party in the course of the mediation;
- iii. proposals made or views expressed by the mediator; and
- iv. the fact that the other party had or had not indicated willingness to accept a proposal for settlement or to continue these or any other mediation proceedings.

The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution.

Mediation shall conclude in one of the following ways:

- i. by the execution of a settlement agreement by the parties; or
- ii. by a written declaration of the mediator, a party, or the parties to the effect that the mediation is concluded.

After May 31, 2020, upon forty-five (45) days' notice, either party may terminate this mediation procedure, after which Step 4 shall become Step 3.

### Step 4: Arbitration

#### a. Initiation of Arbitration

Subject to and in accordance with the following provisions, the Association may initiate arbitration within one hundred thirty-five (135) days of:

- Notice by the Association that mediation is waived; or

## ARTICLE X - GRIEVANCE PROCEDURE

- The conclusion of mediation (other than by the parties' execution of a settlement agreement).

The Association shall have the exclusive right to initiate arbitration of a grievance. Whenever the Association shall initiate arbitration of a grievance, the resolution of which has theretofore been sought by a member or members of the bargaining unit, then such member or members shall be bound in all respects by the decision of the arbitrator to the same extent as the Board and the Association.

The Association shall, upon its determination so to do, initiate arbitration by filing a demand for arbitration with the American Arbitration Association and with the President of the University and the Chair of the Council of Presidents, with a copy to the Employee Relations Committee, within the limits of time set out above.

Such arbitration shall be conducted in accordance with the rules and regulations of the American Arbitration Association in effect on the date of such filing, unless otherwise provided herein; provided, however, that the jurisdiction of the arbitrator to inquire into any issue or to render any award shall be governed solely by the provisions of this Agreement.

In order to proceed to arbitration, within the time specified in the first paragraph in Step 4, the Association shall file a demand for arbitration with the American Arbitration Association, a copy of which shall be sent to the President, the Chair of the Council of Presidents, the Employee Relations Committee and the labor representative of the Council of Presidents in labor arbitration.

The deadline for filing a demand for arbitration for related grievances shall be one hundred thirty-five (135) days after the last of the related grievances has been addressed in accordance with the first paragraph in Step 4. The term "related grievances" shall refer to grievances such as those by different unit members pertaining to the same transaction or occurrence, or other grievances determined by the parties to be related. Such related grievances shall be included in a single demand for arbitration.

### b. Jurisdiction of the Arbitrator

Subject to the provisions of this Agreement, the arbitrator shall have no authority or jurisdiction to:

- i. arbitrate the portion of any grievance that is removed from the jurisdiction of the President by the express terms of this Agreement;
- ii. add to, alter or amend any term or condition of this Agreement; or

## ARTICLE X - GRIEVANCE PROCEDURE

iii. inquire into or arbitrate any issue not presented by the original grievance.

c. Authority of the Arbitrator

Unless otherwise provided in this Agreement, the arbitrator shall have the authority to make a final and binding award on any dispute concerning the interpretation or application of this Agreement. The arbitrator's authority in matters that are arbitrable is limited to determining whether the provisions set forth in this Agreement were violated. The arbitrator shall be without power, right or authority to make a decision or to substitute his/her judgment for that of the Board or its representatives.

The arbitrator shall have no authority to arbitrate any event which occurred or failed to occur prior to the ratification date of this Agreement.

Notwithstanding any rule of the American Arbitration Association to the contrary, in making said decision, the arbitrator shall apply the express provisions of this Agreement and shall not alter, amend, extend or revise any term or condition hereof.

d. Award of the Arbitrator

If the arbitrator determines no express provision of this Agreement has been breached in its application to the grievant as claimed the grievance shall be dismissed. If the arbitrator determines that this Agreement has been so breached, the arbitrator may, subject to the provisions of this Article and except as hereinafter provided, provide an appropriate remedy for the breach; provided, however, that in making any monetary award, the arbitrator shall only provide compensation for actual damages directly attributable to such breach, and shall in no event make any award by way of penal damages.

e. Expense of Arbitration

All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall bear the cost of preparing and presenting its own case.

### D. ASSOCIATION REPRESENTATION

Any member or members of the bargaining unit may initiate and pursue a grievance without intervention of the exclusive representative of the Association, provided that the Association shall be afforded the opportunity to be present at any conferences held and that any adjustment made shall not be inconsistent with the terms of this Agreement.

Any member or members of the bargaining unit may request that the Association



## **ARTICLE X - GRIEVANCE PROCEDURE**

represent them at any Step of the grievance procedure. The Association shall notify in writing the Vice President, the President of the University, and the Chair of the Council of Presidents, as the case may be, of the name and address of such Association representative upon being authorized to represent the grievant.

### **E. WAIVER, ADMISSION, TERMINATION AND GROUNDS FOR APPEAL**

#### **1. Waiver**

Failure of a grievant to comply with any of the provisions of this Article shall be deemed to be a waiver of the right to seek resolution of the grievance under the terms of this Agreement. In determining whether there has been any such failure to comply with any of the provisions of this Article, time shall be deemed to be of the essence, and any failure of the grievant to comply with any of the time limits prescribed herein shall be deemed to be such failure to comply with the provisions of this Article; provided, however, that the time limits prescribed herein may be extended in any specific instance by mutual written agreement of the parties.

#### **2. Admission**

The resolution of a grievance by the Vice President, the President of the University, the Council of Presidents, or any of their designees shall not be deemed to be an admission by any Board of Trustees or the Board that the grievance has, for any other purpose or proceeding, standing as a grievance, or be an admission by any Board of Trustees or by the Board that such grievance is cognizable or justiciable according to any applicable provisions of this Agreement or of the laws of the Commonwealth.

#### **3. Termination**

If any member or members of the bargaining unit shall initiate any administrative, judicial or like proceeding (other than a proceeding in the Division of Labor Relations) that relates to any matter that is the subject of a grievance in respect of which such member or members is or are the grievant while any proceeding in respect of such grievance is pending under any provision of Section C of this Article, such proceeding under Section C shall terminate as of the date of the initiation of such other administrative or judicial proceeding, and the grievance procedures aforesaid shall be inapplicable to such grievance.

#### **4. Grounds for Appeal**

The Board and the Association shall have the right to appeal any final decision of the arbitrator pursuant to the provisions of Chapter 150E, Section 8, and Chapter 150C, Sections 10, 11 and 12 of the General Laws.

### **F. COLLATERAL CONSEQUENCES OF A GRIEVANCE**

The fact that a grievance is alleged by a member of the bargaining unit, regardless of the

## ARTICLE X - GRIEVANCE PROCEDURE

ultimate disposition thereof, shall not be recorded in the Official Personnel File of such member or in any file or record utilized in the taking of any personnel action in respect of such member; nor shall such fact be used in the making of any recommendation for the job placement of such member; nor shall such member or any other member or members who participate in any way in the grievance procedure be subjected to any action, whether disciplinary or other, for having processed such grievance; provided, however, that nothing herein contained shall derogate or be deemed to derogate from the right to take any action that might be authorized or required to be taken to give effect to the resolution of any grievance.

### G. CONSOLIDATED GRIEVANCES

Anything in the foregoing provisions to the contrary notwithstanding, the Association may, within the ten (10)-day period during which a grievance may otherwise be filed, file such grievance with the Chair of the Council of Presidents in the form of a grievance, specifying therein the reasons why the grievance should be treated as a consolidated grievance. The Chair shall, within ten (10) days, determine whether to treat the grievance as a consolidated grievance. If the Chair accepts the grievance as a consolidated grievance, the procedures and time limits of Step 2 shall thereupon apply, provided only that the response rendered at such Step shall be rendered by the Chair in such capacity, rather than by the President of a University. If the Chair declines to accept the grievance as a consolidated grievance, the Association or any unit member or members may, within ten (10) days following the date of the Chair's decision, file the grievance at Step 1 at the University at which such grievance is alleged to have occurred.

### H. APPLICATION

The parties hereby agree that the provisions of Section 53 of Chapter 30 of the General Laws are, in their entirety, hereby rendered of no force and effect in their application to members of the bargaining unit.

Save as is otherwise expressly provided in this Agreement, no claim, however set forth, whether in the form of a grievance or otherwise, alleging a breach, or arising out of an alleged breach, of any of the following provisions shall be the subject of any proceeding, adjudication, determination or remedy pursuant to any provision of this Article X:

- i. Article II, Section A, Fair Practices, as is therein provided; or
- ii. Article III, Section E, Reduced Workload, provided that grievances involving the interpretation of this section may be processed through Step 2 of the Grievance Procedure.

## **ARTICLE XI - OFFICIAL PERSONNEL FILE**

Each University shall maintain an Official Personnel File for each member of the bargaining unit, which shall be kept in a secure place in the custody of the President. Such file shall contain a continuous record of the unit member's status as an employee of the University within the DGCE unit. For the purposes of this Agreement, Official Personnel Correspondence shall mean correspondence from the Board of Trustees or from the Administration of any University to or concerning a member of the bargaining unit which is stamped "Official Personnel Correspondence" and which gives notice of any personnel action taken or proposed to be taken or of any official commendation, reprimand or disciplinary action.

The Official Personnel File shall contain the following:

- i. copies of Official Personnel Correspondence and personnel actions concerning the unit member;
- ii. except as is hereinafter provided, all evaluations of the performance of the unit member made prior to the effective date of this Agreement and made thereafter pursuant to the provisions of Article IX hereof; provided only that the record of any student evaluations may be kept in the form of summaries thereof; and
- iii. an updated official transcript submitted pursuant to the provisions of Article IX hereof.

Except as is hereinafter provided, no other materials shall be included therein.

All materials placed in the Official Personnel File of a unit member shall be stamped "Official Personnel Correspondence," dated when received and numbered sequentially, and all materials contained in each Official Personnel File shall be logged sequentially and a copy of each document forwarded to the respective unit member.

Unit members shall have the right without undue delay to examine their Official Personnel File. Under no circumstances shall the Official Personnel File be removed from its place of safekeeping by the unit member, and access to the Official Personnel File shall, where feasible, be only in the presence of someone in authority.

Unit members shall have the right to place in their Official Personnel File a written statement made in response to materials that are contained in the File or that may affect their employment status.

Upon written request of the individual member of the bargaining unit, the University administration shall reproduce, without undue delay, one (1) copy of such materials.

Within sixty (60) days following the conduct of the seventh (7th) evaluation of the unit member at the University, there shall be removed from the Official Personnel File of such unit member the earliest of such evaluations. Thereafter, no more than six (6) evaluations of the unit member shall remain in the Official Personnel File.

The evaluations to be removed from the Official Personnel File shall be returned to the unit

## **ARTICLE XI - OFFICIAL PERSONNEL FILE**

member.

The Official Personnel File shall be available for inspection by the DGCE Chair, the Dean, the Vice President, the President of the University, the Board of Trustees and the Board and, when so authorized in writing by the unit member, by a representative of the Association. An inspection sheet shall be maintained for each unit member's Official Personnel File. Whenever any person or body inspects the Official Personnel File of a unit member, the name of the individual or individuals conducting such inspection and the date and time thereof shall be noted on the inspection sheet.

Unless required by law, no other person or agency shall be given access to an Official Personnel File without the express written permission of the unit member concerned.

## **ARTICLE XII - COMPLIANCE WITH BOARD TIME SCHEDULES**

The parties agree that any assignment, report, recommendation, or other action of any committee, DGCE Chair, or member of the bargaining unit provided for in this Agreement shall be completed in compliance with such time schedules as may be established from time to time by the Board or President of a University who shall first consult with the Chapter President regarding such schedule.

Reasonable written notice of time schedules shall be provided by the President of the University to the Chapter President. Such notice shall be deemed to be notice to any committee established in this Agreement, to DGCE Chairs and to the members of the bargaining unit. In the event that any committee, DGCE Chair, or member of the bargaining unit, having received such written notice, shall not have so completed its or their work, the President or the Board, as the case may be, may, in their discretion, make such recommendations or take such actions as either deems appropriate, and the making of such recommendations or the taking of such actions shall not be in violation of the procedures set forth in any provision of this Agreement.

### **ARTICLE XIII - NO STRIKE OR LOCKOUT PLEDGE**

The Board agrees that it will not lock out any or all of its employees for any cause during the term of this Agreement, and the Association and its agents agree that they will not engage in, induce, or encourage any strike, work stoppage, slow down, or withholding of services by any member or members of the bargaining unit.

Nothing contained in this Article shall be deemed to waive, impair or restrict the right of the Board or the Association to seek or pursue any remedy at law or in equity provided by the laws of the Commonwealth.

#### **ARTICLE XIV - SAVINGS CLAUSE**

If it shall have been adjudicated that any of the provisions of this Agreement in any manner conflict with or contravene any Federal Law or Statute, any Law or Statute of the Commonwealth of Massachusetts, or any rules or regulations promulgated pursuant thereto, such provisions shall be considered null and void and shall not be binding on the parties hereto; in such event, the remaining provisions of this Agreement shall remain in full force and effect.

Upon the request of either party, the parties shall meet not later than ten (10) days following such adjudication for the purpose of negotiating with respect to the provision or provisions so deemed invalid.

**ARTICLE XV - DURATION**

This Agreement shall be for the three (3)-year period from January 1, 2018, to December 31, 2020. At the written request of either party, negotiations for a successor agreement shall be commenced on or before June 1, 2020; provided only that nothing herein contained shall be deemed to obligate either party to commence such negotiations on any date earlier than May 1, 2020.

This Agreement will remain in full force and effect until a new agreement is executed or an impasse in negotiations is reached.

Nothing herein shall derogate from the legal rights and duties of the respective parties relative to matters that impact mandatory subjects of collective bargaining.

This Agreement executed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

BOARD OF HIGHER EDUCATION

MASSACHUSETTS STATE COLLEGE  
ASSOCIATION/MTA/NEA

By: \_\_\_\_\_  
Commissioner of Higher Education

By: \_\_\_\_\_  
Massachusetts Teachers Association/NEA

By: \_\_\_\_\_  
Director of Employee and Labor Relations  
Department of Higher Education

By: \_\_\_\_\_  
Massachusetts State College Association

By: \_\_\_\_\_  
Chair, Council of Presidents



**APPENDIX A**

(ARTICLE III – ASSOCIATION SECURITY – SECTION A, P. 9)

**PAYROLL DUES DEDUCTION AUTHORIZATION**

To the Board of Higher Education:

I hereby authorize and direct the Board of Higher Education, through its officers, agents and employees, to deduct from the portion of my stipend due me each instructional period the amount certified in the Agreement between the Massachusetts Teachers Association/NEA and the Board of Higher Education at the current rate of dues. Such deduction is to start immediately after the date of this authorization.

I further authorize and direct you to transfer and pay the sum so deducted to the Treasurer of the Massachusetts Teachers Association/NEA.

In consideration of the above-described service rendered by the Board of Higher Education, its members, officers, agents and employees, the undersigned hereby releases and discharges the Board of Higher Education, its members, officers, agents and employees, of and from any and all liability whatsoever arising as a result of the authorization herein given.

This authorization is revocable by me upon sixty (60) days' written notice to the Massachusetts Teachers Association/NEA and the Board of Higher Education, and the revocation will become effective upon the sixtieth (60th) day or upon termination of my employment. It is understood that this service shall be limited to a deduction for one employee organization for any individual employee and that no partial deduction will be made.

\_\_\_\_\_  
EMPLOYEE SIGNATURE

Date: \_\_\_\_\_

Employee ID #: \_\_\_\_\_

Rank: \_\_\_\_\_

Credits taught this instructional period: \_\_\_\_\_

\_\_\_\_\_  
(Print) Last Name

\_\_\_\_\_  
First Name

\_\_\_\_\_  
Middle Initial

Address: \_\_\_\_\_  
\_\_\_\_\_

**Return this form to: MSCA Treasurer, 91 Burrill Avenue, Bridgewater, MA 02325.  
Direct questions to: MSCA Treasurer (508) 531-2793/2794, treasurer@MSCAunion.org**

## **APPENDIX B**

This Appendix is intentionally left blank.

**APPENDIX C**

(ARTICLE VI – APPOINTMENT – SECTION C(5), Pp. 21-22)

**DIVISION OF GRADUATE AND CONTINUING EDUCATION FACULTY  
UNIFORM LETTER OF APPOINTMENT**

I, agree to teach the following course at \_\_\_\_\_ State University at the rank of \_\_\_\_\_, during the \_\_\_\_\_ instructional period of 20\_\_\_\_ in accordance with the officially established academic schedule:

COURSE NUMBER/COURSE TITLE                      CREDIT HOURS

Compensation for this course shall be: \$

I understand that this course may be cancelled prior to its first session if enrollment is insufficient. It is further agreed that I will be available to advise students as necessary or appropriate.

This appointment is governed, as are all conditions of employment, by a collective bargaining agreement between the Board of Higher Education and the Massachusetts State College Association. A copy of the collective bargaining agreement may be obtained by contacting the MSCA-DGCE office on campus.

\_\_\_\_\_  
Academic Vice President  
or Other Appropriate Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Unit Member

\_\_\_\_\_  
Date

Please indicate the following for withholding purposes:

\_\_\_\_\_ ( ) ( )                      [Exemptions [ ] [ ]  
Social Security Number      Married   Single      Claimed      Federal   State]\*

In order to authorize deposit of payments to you, please sign and return the original (top) copy, along with other forms to \_\_\_\_\_ within five (5) working days from the date posted on this letter of appointment. You may retain the second copy.

\_\_\_\_\_  
\* To be included in Letter of Appointment only at University’s option.

## APPENDIX D-1

(ARTICLE IX – EVALUATION – SECTION D(1), Pp. 34-35)

### STUDENT EVALUATION FORM INSTRUCTIONS

**THIS IS YOUR OPPORTUNITY TO EVALUATE THIS CLASS AND ITS INSTRUCTOR. PLEASE BEAR IN MIND THAT THIS IS A SERIOUS MATTER WHICH GIVES EACH OF YOU A CHANCE TO EXPRESS A THOUGHTFUL OPINION. THE RESULTS OF THE QUESTIONNAIRE WILL BECOME A PART OF THE TOTAL EVALUATION PROCESS FOR THE FACULTY OF YOUR UNIVERSITY AND WILL BE PLACED IN THE PERSONNEL FILE OF THIS FACULTY MEMBER. YOUR FAIR-MINDED RESPONSE WILL BE APPRECIATED. INDIVIDUAL WRITTEN STUDENT COMMENTS ARE PROHIBITED ON STUDENT EVALUATION FORMS.**

The following procedures shall be followed in administering the evaluation form for purposes of obtaining student evaluations:

1. No faculty member shall administer forms to their own class. They shall be administered by the DGCE Chair or designee thereof at a time arranged with the faculty member concerned.
2. The individual administering the evaluation forms shall distribute the forms to the students, explain their use, indicate that written comments are not appropriate, and collect them when the forms are returned. The faculty member shall not see them until grades have been submitted.
3. The individual administering the evaluation forms shall, at the time of their administration, note (1) the class enrollment, and (2) the number of evaluation forms returned by students.
4. The faculty member shall not be present during the evaluation process.
5. The individual administering the evaluation forms shall deliver them to the Office of Continuing and Graduate Education, where they will be stored until after the faculty has submitted final grades for the respective class.



**APPENDIX D-2(a)**

(ARTICLE IX – EVALUATION – SECTION D(2), P. 35)

**CLASSROOM OBSERVATION FORM**

Faculty Member's Name: \_\_\_\_\_

University: \_\_\_\_\_

Department: \_\_\_\_\_

Course: \_\_\_\_\_

Instructional Period: \_\_\_\_\_

Date of Observation: \_\_\_\_\_

Using the following key, indicate the degree to which you agree with the statements listed below by circling the appropriate category. Mark your response in INK.

SA – Strongly Agree

A – Agree

N – Neither Agree nor Disagree

D – Disagree

SD – Strongly Disagree

NA – Not Applicable

- |  |    |   |   |   |    |    |
|--|----|---|---|---|----|----|
| 1. The instructor seemed to be concerned with whether the students learned the material. | SA | A | N | D | SD | NA |
| 2. The instructor encouraged students to express opinions.                               | SA | A | N | D | SD | NA |
| 3. The instructor appeared receptive to new ideas and others' viewpoints.                | SA | A | N | D | SD | NA |
| 4. The student had an opportunity to ask questions.                                      | SA | A | N | D | SD | NA |
| 5. The instructor generally stimulated class discussion.                                 | SA | A | N | D | SD | NA |
| 6. The instructor covered appropriate amount of material.                                | SA | A | N | D | SD | NA |
| 7. The instructor appeared to relate the course concepts in a systematic manner.         | SA | A | N | D | SD | NA |
| 8. The class was well-organized.   | SA | A | N | D | SD | NA |

ADDITIONAL REMARKS (OPTIONAL), attach additional sheets if necessary.

\_\_\_\_\_

This is to certify that I have read this document.

\_\_\_\_\_  
Faculty Member's Signature

\_\_\_\_\_  
DGCE Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPENDIX D-2(b)**

(ARTICLE IX – EVALUATION – SECTION D(2), P. 35)

**DISTANCE EDUCATION INSTRUCTION OBSERVATION FORM**

Instructor evaluated \_\_\_\_\_ Department \_\_\_\_\_

Course \_\_\_\_\_ Elective/required \_\_\_\_\_

Date \_\_\_\_\_ Number of students participating \_\_\_\_\_

Instructional Period: \_\_\_\_\_

Type of class \_\_\_\_\_ Level of class \_\_\_\_\_

Background Information:

Type(s) of technology used \_\_\_\_\_

Did the technology function properly? (This question is not about the instructor's performance.)

Number of times the instructor has taught this course \_\_\_\_\_

What portion(s) of the course did you observe (e.g., instructor's content, student discussion)?

Date of pre-observation conference and discussion \_\_\_\_\_

Evaluator's name \_\_\_\_\_

Observation:

The purpose of this observation is (1) to provide a database for more accurate and equitable decision on reappointment and (2) to improve faculty performance.

Please consider each item carefully. Write the rating in ink for each item according to the scale below.

Highest	Satisfactory			Lowest	Not Applicable	Unable to Comment
5	4	3	2	1	NA	U

- \_\_\_ The instructor organized materials and learning activities well.
- \_\_\_ The instructor encouraged relevant student participation.
- \_\_\_ The instructor related course concepts in a systematic manner.
- \_\_\_ The instructor demonstrated engagement with the subject matter.
- \_\_\_ The instructor communicated appropriately to all levels of students.
- \_\_\_ The instructor explained ideas clearly.
- \_\_\_ The instructor demonstrated command of subject matter.
- \_\_\_ The instructor responded appropriately to student questions and comments.
- \_\_\_ The instructor encouraged student engagement with the material.
- \_\_\_ Overall rating of the instructor.

Additional comments:

Date of post-observation conference and discussion \_\_\_\_\_

\_\_\_\_\_  
Signature of Evaluator

\_\_\_\_\_  
Date

I certify that I have read this document.

\_\_\_\_\_  
Signature of Instructor

\_\_\_\_\_  
Date



**APPENDIX D-3**

(ARTICLE IX – EVALUATION – SECTION D(3), P. 35)

**COMPREHENSIVE RESUME FORM**

Faculty Member's Name \_\_\_\_\_

University: \_\_\_\_\_ Date: \_\_\_\_\_

Use this checklist to indicate what materials are included with this resume.

- 1. Official transcripts of additional course work completed since last evaluation.
  
- 2. Progress reports from authorities supervising or directing advanced study (where appropriate).
  
- 3. Bibliography of published works.
  
- 4. Documentation of other professional activities.

This form must be attached to an updated comprehensive resume.

**APPENDIX D-4**

(ARTICLE IX – EVALUATION – SECTION E(2), P. 36)

**FORM FOR EVALUATION BY DGCE CHAIR**

Faculty Member's Name: \_\_\_\_\_ Instructional Period: \_\_\_\_\_

University: \_\_\_\_\_ Department: \_\_\_\_\_

Date of Last Evaluation: \_\_\_\_\_ Date of This Evaluation: \_\_\_\_\_

**DIRECTIONS:**

Evaluate each faculty member on Items A through C. Attach additional sheets if necessary.

**CRITERIA:**

A. Teaching Effectiveness (Article IX, P. 33)

B. Course Advising (Article IX, P. 33)

C. Other Instructional Obligations (Article IX, P. 33)

This is to certify that I have read this document.

\_\_\_\_\_  
Signature of Faculty Member

\_\_\_\_\_  
Signature of DCGE Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **APPENDIX E**

This Appendix intentionally left blank.

**APPENDIX F**

(ARTICLE IX – EVALUATION – SECTION F, P. 36)

**POLICY ON HANDLING ANONYMOUS COMPLAINTS**

The Board of Higher Education, acting by the Council of State College Presidents (“the Board”), and the Massachusetts Teachers Association, acting by the Massachusetts State College Association (“the Association”), agree as follows:

1. The administration of each College shall not take adverse action against any unit member on the basis of anonymous complaints, including complaints where the complaining individual is known but does not want his or her identity disclosed, whether such complaints are made orally or in writing, unless the unit member agrees to the action; no record of any action so taken shall be placed in the unit member’s personnel file or used in connection with the making of any decision under Article VI, §E, or Article IX, of the parties’ collective bargaining agreement.

2. Adverse action means any administrative action based on a suspicion, belief or conclusion of inappropriate conduct or wrongdoing by a unit member.

3. This agreement does not prohibit the administration from orally informing the unit member of the fact that such a complaint has been made and disclosing the nature and substance of the complaint; nor does it prohibit the administration from informing any member of the bargaining unit concerning his or her legal obligations.

4. This policy is consistent with and not limited by the attached Memorandum of Agreement made the 3<sup>rd</sup> day of December 1996.

5. Nothing in this Policy governs the manner in which complaints that are not anonymous may be used or dealt with.

For the MSCA/MTA

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For the Board of Higher Education,

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Attachment: 12/3/96 Memorandum of Agreement

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is made this 3<sup>rd</sup> day of December, 1996, by and between the Board of Higher Education, acting by the Council of State College Presidents (the "Board"), and the Massachusetts Teachers Association, acting by the Massachusetts State College Association (the "Association").

WHEREAS the Board and the Association are parties to a collective bargaining agreement (the "Agreement") that was made between them as of July 1, 1995; and

WHEREAS the Board and the Association wish to clarify certain matters pertaining to complaints should students make them about one or another member of the bargaining unit to which the Agreement is of application;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants set forth below, the Board and the Association hereby agree as follows:

1. The parties recognize and agree that the chair of an academic department has the discretion to make known to a member of the faculty the nature and substance of a complaint that a student, whose identity is known to the chair, has made about such member of the faculty, and the chair may do so without disclosing the identity of the student making such complaint whenever the student has not authorized the disclosure of his or her identity.

2. Only if a student, by a signed writing, authorizes the disclosure of his or her identity to a member of the faculty about whom he or she has made a complaint, may such complaint be used in connection with the evaluation of such faculty member pursuant to Articles VIII, IX and XX of the Agreement or, pursuant to Article XVI of the Agreement, be recorded in such faculty member's personnel file as a part of or in connection with any statement of concern or discipline that is contained in official personnel correspondence.

WHEREFORE the parties hereto hereunder set their signs and seals on the dates inscribed below.

COUNCIL OF PRESIDENTS

MASSACHUSETTS STATE  
COLLEGE ASSOCIATION

By: /s/ Thomas Aceto  
Chair

By: /s/ Frederick M. Doherty