

This collective bargaining Agreement is made and entered into as of the *Fifth day of February 2008*, by and between Elder Services of Berkshire County, Inc. (hereinafter referred to as the “Employer” or Agency”), and Local 509, Service Employees International Union, AFL-CIO, CLC (hereinafter referred to as the “Union.”)

PURPOSE

Elder Services of Berkshire County, Inc. is a private, non-profit corporation founded to provide services which promote and maintain the independence and dignity of the elders of Berkshire County. As the federally-designated Area Agency on Aging, we are committed to the cost-effective use of federal and state funds in creating, brokering and providing a wide variety of services to meet the needs of elders in Berkshire County.

The purpose and intent of this Agreement is to assure proper mutual respect and dignity to all parties; to promote and further harmonious labor-management relations, quality client care, efficiency and responsibility, prompt and equitable disposition of grievances; to maintain communication and cooperation between all employees and management; to prevent strikes and lockouts; and to promote the welfare of the Agency and its clients.

ARTICLE 1 - RECOGNITION

Section 1.

The Employer recognizes the Union as the sole and exclusive bargaining unit for all full-time and regular part-time *Case Managers, Client Service Coordinators, Residential Service Coordinators, PCA Skills Trainers, Hospital Liaisons* and *Protective Service Workers* employed by the Employer at its Pittsfield, Massachusetts location; but excluding all other employees, nutritional employees, Registered Nurses, Respite Workers, office clerical employees, managerial employees, confidential employees, Guards and supervisors, as defined in the Act.

Section 2.

.Unless otherwise indicated by the context, the term “employee” shall refer to any employee who is covered by this Agreement.

A.The term “full time employee” shall refer to any employee who is normally scheduled to work thirty (30) or more hours per week.

B.The term “part-time employee” shall refer to any employee who is normally scheduled to work less than thirty (30) hours per week.

C.Employees who normally are scheduled to work less than thirty-seven and one half (37 ½) hours per week shall have their benefits, other than insurance, pro-rated based on their normal schedule.

ARTICLE 2 - UNION SECURITY

Section 1.

Each present employee covered by this Agreement shall within thirty (30) days of the signing of this Agreement, acquire and maintain membership in the Union in good standing.

Section 2.

Each new employee covered by this Agreement shall, within thirty (30) calendar days after the date of hire, acquire and maintain membership in the Union in good standing.

Section 3.

The Employer will deduct from the wages due the members of the bargaining unit and Union, dues of those employees who individually and voluntarily authorize the Employer to make such deductions by signing the proper forms, in conformity with the provisions of the Taft-Hartley Act and amendments thereto. Such deductions shall be made from the regular paycheck due each employee. The amount of weekly Union dues to be deducted shall be certified in writing by an official of the Union.

The Employer shall remit to the Union, within fifteen (15) days after the end of each month, the amounts deducted for dues, together with the names of the persons from whom such deductions were made and the amount of such deduction.

The Union agrees to, and does hereby indemnify, defend and hold harmless the Company from and against any and all claims, demands, liabilities, suits or any other form of action arising from or relating to any action taken by the Agency in reliance upon information furnished by the Union to the Agency for the purpose of complying with any of the provisions of this Article.

Section 4.

The Employer agrees to advise all new employees in the bargaining unit, at the time of hire, that the Union is their collective bargaining representative. The Union Stewards will introduce themselves to new employees.

The Employer will also notify the Union of changes in personnel within the bargaining unit, including the names, addresses, classifications, experience/education rating, starting dates, and computation of rates of pay for each new employee in the bargaining unit, as well as for those employees in the bargaining unit who have terminated.

Section 5

An employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religious body or sect, which has historically held conscientious objections to joining or financially supporting labor organizations, shall not be required to join or financially support the Union; provided, however, that such employee shall, in lieu of the

payment of periodic dues to the Union, pay sums equal to such dues to any non-religious charitable fund, which is exempt from taxation under Section 501 (c) (3) of Title 26 of the Internal Revenue Code.

ARTICLE 3 - UNION BUSINESS

Section 1.

The grievant (or in the case of a class grievance, a representative of the class) shall be allowed a reasonable amount of time off during normal business hours to speak with his/her supervisor, and to fill out a grievance form in accordance with Step 1 of the grievance procedure.

The grievant (or class representative) shall also be allowed a reasonable amount of time during normal business hours to fill out and submit the grievance form to her/his supervisor, who will forward it to the Program Manager, in accordance with Step 2 of the grievance procedure.

In addition, the grievant (or class representative) and one (1) Union Steward shall be allowed up to one (1) hour of actual meeting time pursuant to Step 3 of the grievance procedure. In the event that travel is required from a branch office to the main office for a Step 3 meeting, the grievant (or class representative) and one (1) Union Steward shall be allowed actual travel time, not to exceed one (1) hour each way.

The grievant (or class representative) and/or the Steward shall be paid for such time, provided that they were scheduled to work during that time, and provided that they actually worked for the remainder of their scheduled shifts before and after said time.

The Union shall provide the Employer with a written list of Stewards and officials as soon as appointed.

Section 2.

Time off, without pay but without loss of benefits, shall be granted to Union officers, Stewards and elected delegates of the Union to attend monthly Local meetings, monthly Executive Board meetings and yearly conventions of the local, state, regional and parent organizations.

Section 3.

Employees may use accrued vacation or personal time for attendance at collective bargaining sessions.

Section 4.

The Employer shall provide a bulletin board within each office at locations to be designated by the Agency, for the purpose of posting official Union notices only. No material shall be posted which is inflammatory, profane or defamatory of Elder Services of Berkshire County, Inc. or its representatives, or which constitutes election campaign material for or against any person, organization or faction thereof. All materials posted will relate to Union affairs.

Section 5.

Upon request of the Union, an employee may be granted a leave of absence without pay to perform full-time official duties on behalf of the Union, for a designated period of time, with approval of the Executive Director.

Section 6.

The Union, with permission from the Employer, may have reasonable use of the Employer's premises for the transaction of Union business.

Section 7.

A representative of the Union, with permission of the Executive Director or designee, shall be admitted to the Agency's premises during working hours for the purpose of participating in the adjustment of a pending grievance; provided that such visits are not abused and do not interfere with employees while at work.

ARTICLE 4 - NON-DISCRIMINATION

Section 1.

The Union and Employer agree not to discriminate against any employee covered by this Agreement on the basis of race, religion, creed, color, national origin, sex, age, non-job-related handicap, parental or marital status, political or philosophical belief, sexual orientation, or lawful Union activity.

Section 2.

The Employer and the Union agree that no person shall be subjected to sexual harassment. Sexual harassment is considered a form of sex discrimination. Unwelcome sexual advances, requests for sexual favors, and other deliberate or repeated unsolicited verbal or physical conduct of a sexual nature constitutes sexual harassment when: 1.) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2.) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3.) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.

All bargaining unit employees must report any conduct which they consider sexual harassment to the Employer as soon as possible.

Section 1.

Except as otherwise specified in the Agreement, the regular hours of work for full-time bargaining unit employees shall be Monday through Friday, thirty-seven and one-half (37 ½) hours per week, including two (2) paid ten (10) minute breaks per day.

Section 2.

The Employer and the Union recognize that flexible work schedules are an acceptable means of addressing the concerns of all employees within the bargaining unit. Any employee who wishes to adopt a flexible program shall request same with the supervisor.

Flex time must occur within the normal work day of the Agency. Currently those hours are between 8:00 A.M. and 5:00 P.M. The Flex time schedule must be an approved and set schedule. An employee on a flex schedule may return to a standard schedule within a two (2) week prior notice to his/her immediate supervisor in writing.

Section 3.

Hours worked between 37.5 hours and 40 hours are to be scheduled at agency discretion based on operational needs as determined by the agency. For hours worked between 37.5 and up to 40, the agency will allow staff an option to accrue compensatory time at time and a half, or to be paid at a straight rate (hour for hour). For hours worked over 40 hours per week, the agency will allow staff an option to accrue compensatory time at time and a half, or to be paid at time and a half. All compensatory time must be used within the ensuing pay period.

Section 4.

A. A one-half (½) hour unpaid meal period shall be scheduled during each workday, but not at the beginning or end of any workday.

B. Employees attending seminars, educational training or other programs outside of Berkshire County, sanctioned or required by the Employer, shall receive a meal allowance up to eight dollars for breakfast and lunch and up to \$20 for dinner, with a receipt submitted for reimbursement.

Section 5. On Call

Any employee who is hired as an on-call worker, while off from normal work hours, for any duties required by the Employer, shall be compensated at the rate of ***two hundred and twenty five dollars (\$225.00)*** per week. In any week in which a holiday falls, an additional compensation of two dollars (\$2.00) an hour for eight (8) hours shall be made. The

If a bargaining unit employee is called back to work, that employee shall receive one and one-half (1 ½) times her/his regular hourly wage from the time s/he is called off on-call. The employee can be called back to work at the workplace or to the field, and be compensated for direct portal to portal time between locations, with the on-call supervisor's or the back-up supervisor's approval.

ARTICLE 6 - BENEFITS

Section 1.

The Agency shall maintain its present contribution rate for health insurance. In the event the Executive Office of Elder Affairs provides an increase in the amount of fringe monies available, the Agency's contribution rate to health insurance will be increased proportionately.

The Agency may shop for and modify or change health insurance coverage during contract terms based on costs and what, in the best interests of the agency, proves to be a cost effective and beneficial group health insurance plan for the agency and its employees as a whole. The union will be provided with a notice and opportunity for input prior to any change.

Section 2

The Agency shall maintain its present contribution rate for dental insurance. In the event the Executive Office of Elder Affairs (E.O.E.A) provides an increase in the amount of fringe monies available, the Agency's contribution rate to dental insurance will be increased proportionately.

Section 3.

The Employer shall provide a short-term disability insurance for its employees, at no cost to the employees.

Section 4.

The Employer shall provide a life insurance policy, with a value of one and one-half (1 ½) the employee's annual salary, at no cost to the employee.

Section 5.

The Employer shall maintain its present contribution rate for the Pension Plan. The Union will be notified in advance of any contribution in the profit sharing plan. All of the Employer's obligations under the Plan, and these assumed herein, shall continue only so long as there is in existence an effective collective bargaining Agreement between the Employer and the Union.

Section 1.

Employees who use their own cars on Agency business shall be reimbursed at the allowable Internal Revenue Service rate, retroactive to the date of the change by the I.R.S., plus the cost of parking and tolls, with the exception of those expenses related to commuting to and from work.

Section 2.

Employees who use public transportation on Agency business shall be reimbursed the actual cost of such transportation, with the exception of those expenses related to commuting to and from work.

Section 3.

The Employer, given itemized telephone bills indicating work related charges, will pay for approved work related telephone calls whether from home or by cell phone.

Section 4.

All expenses shall be paid monthly, with the submission of proper documentation as required by the Agency.

ARTICLE 8 - SALARIES

Section 1.

Employees shall receive a paycheck, minus deductions, every other Wednesday. Sick Time data will be included on pay stubs.

Section 2.

The parties recognize the influence of the Executive Office of Elder Affairs (E.O.E.A.) of the Commonwealth over availability of salary funds.

Section 3.

In any case where E.O.E.A. or Elder Services of Berkshire County, Inc. provide funds for salary improvement, incentive raises, bonuses, or any other economic improvements, such as Quality of Care fund, for bargaining unit employees, the Union will be afforded the opportunity to bargain over such improvements.

Section 1.

The Employer agrees to indemnify and defend its employees for all liability arising within the scope of their employment for the Employer.

Section 2.

The Employer shall provide a professional liability insurance policy to all its employees in the amounts of one million dollars (\$1,000,000.) per person and one million dollars (\$1,000,000.) per incident, subject to the availability of insurance. Said insurance shall be “occurrence insurance,” and further, said policy shall provide for the defense costs of each employee.

ARTICLE 10 - HOLIDAYS

Section 1.

The holidays recognized by this Agreement for bargaining unit employees shall be as

follows:

New Year’s Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents’ Day	Veterans’ Day
Patriots’ Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	Floating Holiday (as approved by supervisor)

Section 2.

An employee shall be paid her/his straight time hourly rate for each of the above holidays, even though s/he performs no work on that holiday; provided s/he has worked the scheduled work day preceding and following the holiday, unless s/he has been excused for bona fide illness on either or both of those days.

Part-time employees’ time shall be pro-rated. Employees receive holiday pay based on the number of scheduled hours of work on the observed day of the holiday.

Section 3.

Holiday pay shall not be paid to an employee on any leave of absence, including maternity, sickness (unless excused by the supervisor for a bona fide illness), lay-off, personal or Union business leaves, for any holiday falling within the period of the leave of absence.

An employee shall not receive pay twice for the same day.

If a holiday falls during an eligible employee's vacation period, s/he shall receive an additional day of vacation leave, provided that s/he works the last day prior to the beginning of her/his vacation and the first day after her/his vacation period ends, unless s/he has been excused for bona fide illness on either or both of these days.

ARTICLE 11 - VACATION

Section 1.

Employees in the bargaining unit covered by this Agreement, and who are on the Employer's payroll for six (6) months, the eligibility rate for vacations and vacation pay, and who have continuous length of service as stated below, shall receive vacations and vacation pay in accordance with the following schedule:

Length of Service Vacation Days and Pay

Less than three years -Fifteen (15) days per year/ 9.375 hours per month
Three (3) years to eight (8) years - Twenty (20) days per year/ 12.5 hours per month
Eight (8) years and over -Twenty-five (25) days per year/15.25 hours per month

An employee is eligible to take accumulated vacation time after the first six (6) months of employment, and upon successful completion of the probationary period, pro-rated for the number of hours worked. The employer may, in its sole discretion, permit an employee to use accumulated vacation time after the first six (6) months of employment and prior to the successful completion of the probationary period.

Section 2.

Vacation is earned from date of hire, and shall not be granted prospectively.

Section 3.

Vacation may be accumulated up to a maximum of thirty (30) days.

Section 4.

If two (2) or more employees in the same supervisory unit request the same vacation period, vacation shall be granted by seniority if a conflict arises. The Agency will allow three (3) bargaining unit employees in a supervisory unit consisting of seven (7) or more employees (or two (2) bargaining unit employees in a supervisory unit consisting of six (6) employees) to be on vacation in any given week, subject to the staffing and operational needs of the Agency.

Vacation shall be requested ninety (90) days in advance, unless an emergency arises. A supervisor may allow an additional employee vacation time if it meets with the staffing and operational needs of the Agency after checking with the other supervisory personnel.

Section 5.

Upon the death of an employee who is eligible for vacation under this Agreement, payment shall be made to her/his estate in an amount equal to the vacation leave accrued but not used by the employee up to the time of her/his separation from the payroll.

Section 6.

Vacation pay shall be computed as follows: vacation pay shall be paid at straight time rates, for the time worked during the vacation year. Regular part-time employees will be eligible for vacation benefits pro-rated for the number of hours worked.

Section 7.

If an employee's employment terminates, except for discharge for just cause, s/he shall receive, subject to the eligibility requirements and method of computation stated in this Article, her/his accumulated, pro-rated vacation pay for the time s/he had worked in the vacation year prior to her/his termination of employment, provided that s/he provides fourteen (14) days of written notice of her/his intent to terminate her/his employment.

Section 8.

Scheduling of vacation shall be subject to the staffing and operational needs of the Employer, and must be approved by the Executive Director or the appropriate supervisor.

ARTICLE 12- SICK LEAVE

Section 1.

Full-time employees shall accumulate sick leave at the rate of one (1) day for each full month of employment.

Part-time employees shall accumulate sick leave pro-rated for the number of hours worked.

Any abuse of this sick leave provision shall subject her/him to discipline. Section 2.

Sick leave may be accumulated up to a maximum of one hundred (100) working days.

Sick leave shall only be paid for the following reasons:

- A. Bona fide illness of employee;
- B. Bona fide illness of a family member of the employee where said family member, because of her/his illness, requires the employee's care or assistance;
- C. Medical appointments with licensed physicians, when notice of appointment is given as far in advance as possible.

Section 4.

An employee having no sick leave credits, who is absent due to illness, shall be placed on vacation leave or personal leave. The employee shall have the right to refuse to have vacation leave used in lieu of sick leave by notifying the Employer in writing.

Section 5.

Upon termination of employment with the Agency, except employees discharged for just cause, the employee shall be paid thirty-five percent (35%) of the difference between forty-five (45) days and one hundred (100) days accumulated sick leave.

ARTICLE 13- PARENTAL LEAVE

Section 1.

An employee, who has completed her/his probationary period, shall be eligible for an unpaid parental leave of absence, requested thirty (30) days prior to leave unless an emergency arises which is beyond the control of the bargaining unit employee, in conjunction with the birth or adoption of a child. The leave shall commence on the date requested by the employee, and shall continue up to eight (8) weeks (up to twelve (12) weeks if the employee qualifies for such additional time pursuant to the employer's Family and Medical Leave Act policy); provided, however, that such leave may be extended to an additional three (3) months by mutual consent between the employee and the Employer.

Section 2.

At the expiration of the parental leave, the employee will be restored to her/his previous position, or similar position with the same status, pay and length of service credit as of the date of her/his leave. If, during the period of the leave, employees in the same or similar position in the Agency have been laid off through no fault of their own, the employee will be extended the same rights and benefits, if any, extended to employees of equal length of service or similar position in the Agency.

Notwithstanding any other provision of this Agreement to the contrary, parental leave granted under this Article shall not affect the employee's right to receive any contractual benefits for which s/he was eligible at the time of her/his leave.

Section 4.

Employees on parental leave shall be permitted to use all accrued time off beyond parental leave, subject to staffing and operational needs of the Agency.

Section 5.

When an employee is on parental leave, the Employer will continue to pay its share of health and welfare benefits.

ARTICLE 14 - OTHER LEAVES OF ABSENCE

Section 1.

Permanent employees are allowed three (3) personal days per year. Employees who work thirty-seven and one-half (37 1/2) hours per week will receive twenty-two and one-half (22 1/2) hours per year. Full-time employees working less than thirty-seven and one-half (37 1/2) hours per week, and part-time employees, will receive personal time pro-rated for the number of hours worked.

Employees hired after July 1, 1998 shall be entitled to one personal day at the commencement of each four month period (1/1, 5/1, 9/1). For employees hired during a four month period, personal time will be pro-rated for the remainder of that period.

Example: If an employee is hired on July 1, 1998, the employee is entitled to 0.5 days. On September 1, 1998 the employee is entitled to an additional personal day.

Personal time can be used on a per-hour basis.

Personal time does not carry over beyond the end of the calendar year.

Section 2.

Up to five (5) days paid leave may be granted by the Agency in the event of a death in the employee's immediate family. Immediate family includes mother, father, husband, wife, significant other (as a present common-law spouse), brother, sister, children, foster-parent or child, stepchild, stepparent, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law and daughter-in-law, grandparent, or grandchild.

Prior to the use of bereavement time, the approval of the immediate supervisor is required. Bereavement leave is not payable upon termination of employment.

Under extenuating circumstances the employer may grant unpaid extended time for family bereavement. The granting of this extended time shall be at the sole discretion of the Employer and shall not be precedent setting.

Section 3.

When an employee is called for jury duty, the employee shall be continued at full pay, less the amount received for such services. The employee shall submit to the Employer a statement of monies received while serving on jury duty, and the notice for jury duty service, as soon as it is received.

An employee shall be granted leave without pay for court attendance when the employee is engaged in personal litigation.

Section 4.

An employee entering military service shall have re-employment rights in accordance with the federal and state statutes pertaining to military service. An employee who is called or enlists in the military service will be granted a leave of absence without pay. The employee must, upon completion of duty, return to the Agency within ninety (90) days to be eligible for reinstatement in her/his former position. All veterans' re-employment rights are honored by the Agency.

An employee shall be entitled, during her/his annual tour of duty of not exceeding seventeen (17) days as a member of a reserve component of the Armed Services of the United States, to receive pay therefor, less the amount received from said tour of duty.

Section 5.

When the interest of the Agency can be furthered by employees' attendance at conferences and training, staff members may be authorized to attend. This authorization will be made by the employee's supervisor and Program Manager. When attendance is authorized, the Agency provides conference costs up to one hundred dollars (\$100.00) per full-time employee, per year, plus mileage if the current fiscal year's budget permits. This allowance may be increased above the \$100 per employee limit at the employer's sole discretion. If the employer does allow more than the \$100 limit, the employer shall notify the union steward each time that this occurs. Conference and training allowance for the succeeding fiscal years may be increased provided the budget permits. Part-time employees will receive pro-rated benefits. Work hours will be adjusted accordingly within the pay period or ensuing pay period with the approval of the supervisor.

Section 6.

The Employer may grant other unpaid leaves of absence when requested by an employee for personal reasons, educational advancement, or other reasons. Such leaves shall be subject to the operational needs of the Agency.

If two (2) or more employees in the same office request leave at the same time, said leave shall be granted by seniority if a conflict arises.

Section 8.

In order to meet the operational needs of the Agency, when any employee is on any type of leave, including family/medical, in excess of four (4) weeks, or when any open position that the Agency intends to fill remains unfilled for six (6) weeks, the employer will attempt to increase the hours of part-time employees by seeking volunteers by job classification, to then offer any remaining available work to full time employees up to forty (40) hours per week at a straight time rate of pay, and if work is still available, to temporary employees of contract service personnel, provided sufficient funds are available. Temporary employees or contract service personnel are not members of the bargaining unit, and are not covered by the terms of this agreement.

ARTICLE 15- JOB OPENINGS/REASSIGNMENT

Section 1.

Whenever there is a job opening in a bargaining unit position, that job shall be posted throughout the bargaining unit. All applicants within the bargaining unit shall have the opportunity to apply.

Selection shall be based on the ability to do the job. All final applicants being equal, seniority will apply.

Section 2.

Reassignments shall normally be made by soliciting volunteers, absent special needs, as determined by the Agency.

Section 3.

The Employer will provide an employee who is to be reassigned with notice of reassignment, if possible.

Section 4.

Reassignment shall not be used as a disciplinary measure.

ARTICLE 16 - WORKING OUT OF CLASSIFICATION

Section 1.

Whenever an employee is assigned to work in a higher classification, that employee shall

Section 2.

When an employee is performing the duties of a person classified in a lower position on a temporary basis, s/he will be compensated at her/his regular rate.

ARTICLE 17 - SENIORITY

Section 1.

Agency-Wide seniority means the length of time an employee has been continuously employed with Elder Services in any position with Elder Services. Agency-Wide seniority shall be used in determining fringe benefit entitlement.

Section 2.

Bargaining Unit seniority means length of continuous service in any position in the bargaining unit unbroken by any of the reasons specified in Section 3 of this Article. Effective upon the signing of this Agreement, current employees shall have their seniority based on the current seniority list. After the signing of this Agreement, newly hired employees in bargaining unit positions shall have their seniority determined in accordance with the above definitions of Agency-Wide and Bargaining Unit seniority.

Section 3.

An employee shall lose her/his seniority if s/he:

- A. Quits, retires or resigns;
- B. Is discharged or terminated for just cause;
- C. Fails to report for work for a period of three (3) working days, without permission, and fails to notify her/his supervisor during said period of any valid reason for her/his absence. Such instances shall be considered an abandonment of position and may subject the employee to termination from employment;
- D. Is laid off, and said lay-off is continuous for a period of one (1) year;
- E. Fails to report back to work, following lay-off, within three (3) working days after being recalled by a written notice of recall by the Agency to the employee's last known address, unless such failure to report back is due to reasons beyond the employee's control.

ARTICLE 18 - LAY-OFF

Section 1.

For the purpose of lay-off, the following shall be the categories of employees:

Case Managers, Client Service Coordinators, PCA Skills Trainers,
Residential Service Coordinators, Hospital Liaisons, Protective Service
Workers

Within these categories, the least senior employee shall be laid off first, provided that if an employee has previously worked as either a Case Manager, Client Service Coordinators, PCA Skills Trainers, Residential Service Coordinators, Hospital Liaisons or Protective Service Worker s/he may exercise his/her classification seniority within that classification in the event of a lay-off, to bump the least senior employee within that classification.

Section 2.

Whenever possible, the Employer shall give written notice to the affected employee(s) at least ten (10) days prior to lay-off.

Section 3.

Any laid-off employee will retain recall rights for twelve (12) months. When a vacancy occurs, the Employer shall send notice by registered mail to the affected employee, and to the Union. The affected employee will have three (3) working days to respond. The most senior employee on the recall shall be rehired if s/he responds within the recall period.

ARTICLE 19-A - GRIEVANCE

Section 1.

The purpose of this Article is to provide an orderly method for the settlement of a dispute between the parties over the interpretation, application, or claimed violation of any of the provisions of this Agreement. Such a dispute shall be defined as a grievance under this Agreement, and must be presented in writing within ten (10) working days after it arises; and be processed in accordance with the following steps, time limits, and conditions herein set forth. Any informal settlement of a grievance shall not constitute a precedent for the future interpretation or application of the Agreement.

STEP 1: The employee shall first take up her/his grievance with her/his immediate supervisor within ten (10) working days after the incident giving rise to the grievance occurs; and, if the aggrieved employee requests, a Union representative shall be given an opportunity to be present at a time to be fixed by the supervisor, who will then give her/his answer within five (5) working days. Should the supervisor fail to give an answer within five (5) working days, the Agency answer shall be deemed to be a denial of the grievance.

If the grievance is not settled, it shall, within five (5) working days thereafter, be set forth in writing, signed by the employee, and given to the supervisor who shall, within five (5) working days after receipt thereof, give her/his written answer to the grievance.

STEP 2: If the grievance is not settled at STEP 1, the aggrieved employee may, within five (5) working days after receipt of the supervisor's written answer, submit her/his grievance to

the Program Manager, who shall give her/his written answer, within five (5) working days after receipt of the STEP 2 grievance. Should the Program Manager fail to give an answer within five (5) working days, the Agency answer shall be deemed a denial of the grievance.

STEP 3: If the grievance is not settled at STEP 2, the aggrieved employee may, within five (5) working days after receipt of the Program Manager's written answer, submit her/his grievance to the Executive Director or her/his designee, who shall discuss it with the Union's representative at a time to be fixed by the Executive Director or her/his designated representative.

The Executive Director or her/his designated representative shall give her/his written answer to the grievance within five (5) working days after the close of the discussion. Should the Executive Director or her/his designee fail to give an answer within five (5) working days, the Agency answer shall be deemed a denial of the grievance.

Section 2.

The parties agree to follow each of the foregoing Steps in the processing of the grievance; and, if at any Step, the Agency's representative fails to give her/his written answer within the time limit therein set forth, it shall be deemed a denial by the Agency and the Union may appeal the grievance to the next Step at the expiration of such time limit.

Section 3.

The settlement of a grievance in any case shall not be made retroactive for a period exceeding twenty (20) working days prior to the date the grievance was first presented in writing.

Section 4.

If the Agency claims that the Union has violated any provision of this Agreement, it may present such claim to the Union in writing; and if the parties fail to settle it, the Agency may appeal it to arbitration, in accordance with the arbitration clause hereinafter set forth.

Section 5.

Failure of the Union to comply with the procedure set forth above shall result in a waiver of the grievance. The parties may extend the above time limits in writing by mutual agreement.

Section 6.

Both parties may agree, in writing, to an expedited grievance procedure beginning at STEP 3.

ARTICLE 19- B - ARBITRATION

Section 1.

In the event a grievance is not settled after the completion of the grievance procedure prescribed in Sections 1-6 of this Article, the grievance may be submitted to arbitration in accordance with the following procedure:

A. Within ten (10) working days after the Agency's answer, if either party desires the issue to be submitted to arbitration, it will notify the other party in writing. Both parties will then agree on a mutually acceptable arbitrator and date for such an arbitration. Failure to reach such agreement within ten (10) working days shall result in submission of the issue to the Federal Mediation and Conciliation Service, or the American Arbitration Association's Hartford, Connecticut office, in accordance with the procedures of the chosen arbitration service. The agreed upon time frame wherein arbitration must be filed is 10 working days after RECEIPT OF the Agency Director's answer to the grievance. (Receipt to be presumed within three (3) days of any mailed response)

B. The authority of the arbitrator shall be limited to the terms and provisions of this Agreement and to the question or questions which are submitted. The arbitrator shall be bound by the provisions of this Agreement, and s/he shall not have the authority to establish or change wage rates or any other forms of compensation, or any terms or conditions of employment, or add to, subtract from, modify, or otherwise change any of the terms or provisions of this Agreement.

C. The expense of the arbitrator and the expenses directly related to the arbitration hearing (e.g., hearing room) shall be shared equally by the Agency and by the Union.

D. The decision by the arbitrator shall contain a statement of all the facts and evidence on which the arbitrator relies, and a full statement of the reasons in support of her/his conclusions and award.

E. The arbitrator shall not be empowered and shall have no jurisdiction to substitute her/his judgment or discretion for the judgment or discretion of the Agency in any case where the judgment or discretion is retained by or given to the Agency under an expressed provision of this Agreement.

F. The arbitrator shall mail her/his written decision simultaneously to the Agency, to the Union and to the aggrieved employee within thirty (30) days after the final submission. Subject to the provisions of Section 1-C of this Article, the decision by the arbitrator shall be final and conclusively binding upon the Agency, the Union and the aggrieved employee.

G. The request for arbitration shall state the known facts in support of the grievance, the alleged violation of this Agreement, and the remedy or relief sought by the party requesting arbitration.

Section 2.

If any matter is referred to any state or federal regulatory or administrative agency or judicial body, then the grievance and arbitration provisions of this Agreement shall be permanently stopped or closed.

Section 3.

The breach by the Union or by any of the employees of any of the provisions of Article 31 (No Strike Clause) shall, at the option of the Agency, forthwith terminate all of the obligations of the Agency under the provisions of Articles 19-A (Grievance Procedure) and 19-B (Arbitration), except as provided in Article 31, second paragraph.

ARTICLE 20 - PROBATIONARY PERIOD

Section 1.

A newly hired employee, during the first six (6) months of continuous service, shall be a probationary employee. During her/his probationary period, the Agency may discharge her/him, and terminate her/his employment in its sole judgment without recourse by said employee or the Union; and the Agency's action shall not be subject to the grievance or arbitration provisions of this Agreement.

If the Agency retains said employee after the completion of her/his probationary period, her/his seniority in the bargaining unit shall be computed from the first day of her/his employment.

Should an employee terminate her/his employment with the Agency, and subsequently be rehired by the Agency within two (2) years of her/his termination date, her/his probationary period upon rehire shall be limited to three (3) months of continuous employment.

Section 2.

The Union will grant a request made by the Agency, in writing, before the expiration of an employee's probationary period, for an extension of said employee's probationary period, not exceeding forty (40) working days.

ARTICLE 21 - DISCIPLINE

Section 1.

The Employer shall not discharge or discipline an employee without just cause.

Section 2.

The Employer recognizes the concept of corrective discipline when appropriate.

Section 3.

In the event that an employee is interviewed by the Employer on any subject that may lead to discipline or discharge, the employee may request to have the Steward present at any

Section 4.

All disciplinary action shall be subject to the grievance procedure, except disciplinary action taken during an employee's probationary period.

ARTICLE 22 - PERSONNEL RECORDS

Section 1.

Each employee, and/or the Union with the employee's written consent, shall have the right, upon request, to examine and receive copies of any and all material, including any and all evaluations, contained in any personnel records concerning such employee, within a reasonable time after said request.

Section 2.

Whenever any material, including evaluations, is inserted into the personnel file or record of an employee, said employee shall be promptly notified, and given a copy of such material.

Section 3.

The Union or any employee may challenge the accuracy of any material and/or personnel evaluation in her/his personnel file or record by filing a written statement or the challenge in the personnel file.

ARTICLE 23 - HEALTH, SAFETY, WORKING CONDITIONS

Section 1.

The Employer agrees to provide a safe working environment including personal safety training.

Section 2.

When the Employer plans any changes which will affect the Agency offices, the Employer will notify the employees whose work locations will be affected, and the Union; and agrees to receive input.

Section 3.

No employee shall be required to transport clients.

Section 4.

In the event an employee's personal property or clothing is destroyed, damaged or stolen in the performance of her/his regular duties, the Employer shall reimburse the employee for repairs or replacement of the article(s), provided the loss falls within the Agency's insurance coverage. The Employer shall take prompt and timely action in the disposition of employee claims for reimbursement.

ARTICLE 24 - JOB DESCRIPTION

Section 1.

The Employer will provide to each employee a copy of her/his job description. A job description shall be an accurate summary of duties, responsibilities and requirements of the job, and shall include any special conditions of employment.

Section 2.

When E.O.E.A. or Elder Services of Berkshire County, Inc. requires major or substantial changes in current job responsibilities, the Agency will meet and discuss these changes with the Union.

Section 3.

If the Employer or the Executive Office of Elder Affairs mandates additional educational, licensing or certification requirement, the employee will be adequately trained on Agency time to meet these requirements. If s/he cannot be adequately trained on Agency time, s/he will be reimbursed for all expenses in off-work training.

Section 4.

A complete set of job descriptions shall be on file with the Employer, and shall be available for examination and copying by any bargaining unit employee and/or Union representative.

ARTICLE 25 - WORKLOADS

The parties recognize the workload limits established for Case managers and Protective Service Workers by the Executive Office of Elder Affairs, and the control E.O.E.A. has on staffing patterns. The parties agree to continue to work toward modifications of current policies for workloads, within E.O.E.A. and Agency guidelines. Any amendment to E.O.E.A. guidelines will be incorporated by reference herein. The agency will endeavor to distribute workloads equitably.

Based on the complexities involved with workload issues a work group comprised of case management and supervisory staff will be convened to discuss work load processes.

ARTICLE 26 - CASE MANAGER MEETINGS

Case managers may have a one (1) hour meeting twice a year on agency time during normal office hours. These meetings shall take place either at the beginning or end of the work day. Management shall be notified two (2) weeks in advance so that they can make any appropriate arrangements and to make sure there are no scheduling conflicts. Management may attend these meetings if they so desire. There is no additional pay for travel or travel time to attend these meetings.

ARTICLE 27 - LABOR-MANAGEMENT COMMITTEE

If both parties agree, a Labor-Management Committee may be formed to discuss issues of mutual interest.

ARTICLE 28 - SEPARABILITY

Should any provision of this Agreement be found to be in violation of any federal or state law, or a final decree of a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement. The illegal provisions shall be stricken, and the parties shall thereafter act in accordance with that federal and state law.

ARTICLE 29 - VOIDABLE WAIVER

If either party fails to comply with any provision of the contract, neither party shall waive the right to enforce the provision in the future.

ARTICLE 30- MANAGEMENT RIGHTS

The management of the Agency and the direction of the working force, including: 1) the right to plan, direct and control operations; 2) to schedule and assign work to employees; 3) to determine the methods of operation; 4) to determine the services to be provided; 5) to choose the location of its offices and the continuance of its operating departments; 6) to establish standards and to maintain the efficiency of employees; 7) to establish, and require employees to observe, Agency rules and regulations; and 8) to hire, lay-off or relieve employees from duties; 9) to maintain order and to suspend, demote, discipline and discharge employees for just cause, are the recognized reserved rights of the Agency.

The foregoing enumeration of management rights shall not be deemed to exclude other rights of management not specifically set forth; the Agency, therefore, retaining all rights not otherwise specifically restricted by this Agreement.

The exercise by the Agency of any of the foregoing rights shall not alter any of the specific provisions of this Agreement; nor shall they be used to discriminate against any member

ARTICLE 31 - NO STRIKE, NO LOCKOUT

During the term of this Agreement the parties hereto agree that there shall be no strikes of any kind whatsoever, including, but not limited to, sympathy strikes, work stoppages, slowdowns, or interference or interruption with the operations of the Agency by any employees or the Union; and there shall be no lockouts by the Employer.

Employees who violate this provision shall be subject to disciplinary action, including discharge; disciplinary action under this Article shall be subject to arbitration, as provided for under Article 19-B of this Agreement.

ARTICLE 32 - EXPRESSED WAIVER

The parties agree that this Agreement constitutes the entire contract between them governing the rates of pay and working conditions of the employees in the bargaining unit during the term thereof; and settles all demands and issues on all matters subject to collective bargaining, including any demands made by the Union during negotiations except economic improvements under Article 8 of the contract for the bargaining unit.

Accordingly, the Union expressly waives the right during the term of this Agreement to demand, discuss or negotiate upon any subject matter, whether or not such subject matter is specifically contained in this Agreement or whether such subject matter has or has not been raised or discussed by either party during negotiations leading up to the execution of this Agreement.

Provided, however, in the event that E.O.E.A. mandates a change in a term or condition of employment, the Agency shall notify the Union and give the Union an opportunity to bargain over the changes, including economic improvements (under Article 8-Salaries of the contract).

ARTICLE 33 - DURATION AND RENEWAL

The term of this agreement shall begin *October 1, 2007*, and be binding upon the parties hereto; and shall remain in full force and effect until terminated on or after *October 1, 2010*, by written notice from the Union.

Ninety (90) days before the expiration date of this Agreement, to wit: midnight **July 1, 2010**, either party may give written notice to the other that it desires to terminate or modify this Agreement; and, upon receipt of such written notice, the parties agree to meet and confer for the purpose of negotiating a new Agreement.

In witness whereof, the parties hereto have executed the Agreement on this _____ day of _____, 2008.

LOCAL 509, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, CLC:

By: _____

ELDER SERVICES OF BERKSHIRE COUNTY, INC.:

By: _____

MEMORANDUM OF AGREEMENT -FEBRUARY 5, 2008

New Educational Incentive Adjustment:

Effective 7/1/07, in order to support staff who have obtained, or do obtain Social Work Licensure (LSW, LSWA, LCSW, or LICSW), Elder Services of Berkshire County, Inc. will make a one time salary adjustment of \$1,000 to the base salary of all active bargaining unit staff who provide acceptable documentation of such licensure to the Human Services Coordinator.

Salary Adjustments:

- a.) **A. Salary Adjustments:** Year one: Effective July 1,2007 Given that salary reserve of 2.36% has already been mutually agreed upon and distributed, a 2.64% increase to base rate prior to salary reserve adjustment of all bargaining unit salaries for bargaining unit staff on the payroll at the date of ratification.
- b.) Years two and three: Minimum of 2% increase to base of all bargaining unit salaries for bargaining unit staff on the payroll at the date of ratification, inclusive of salary reserve for 10/1/08 and 10/1/09.

The agency agrees to pay an additional \$20.00 per week for Protective Services Workers for each full time Protective Services Worker position that is vacant that the Agency intends to fill to provide protective services casework; and \$20.00 for Client Service Coordinators, Residential Service Coordinators, Hospital Liaison and Case Managers, to provide case management for each full time Client Service Coordinator, Residential Service Coordinator, Hospital Liaison or Case Manager position. This

compensation will begin on the day that the employee is assigned additional cases from the unfilled position vacated and will normally cease after the newly hired staff person has completed **12** weeks of employment.

As a one time exception on a without prejudice or precedent basis, the agency agrees to pay an additional \$20.00 per week for the two Client Service Coordinator/Residential Service Coordinator positions the agency created in January, 2008.

The Agency agrees to pay an additional \$20.00 per week for each full time Case Manager, Client Service Coordinator, Residential Service Coordinator, Hospital Liaison and Protective Service Worker position, that is temporarily vacant on a full time basis, due to an Agency approved leave, excluding vacation. This payment will begin at week 3 and be paid through the leave up to 12 weeks.

In witness whereof, the parties hereto have executed this Memorandum of Agreement on this _____ day of _____, 2008.

LOCAL 509, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, CLC:

By: _____

ELDER SERVICES OF BERKSHIRE COUNTY, INC.:

By: _____

**APPEDIX A FAMILY AND MEDICAL LEAVE
PROVISIONS**

Application for a non-emergency leave of absence is made in writing to an employee's

immediate supervisor at least thirty (30) days prior to the proposed commencement date of the proposed leave of absence or at least two (2) weeks prior to the end of a previously authorized leave of absence in the case of a request for an extension. The request for a leave is then reviewed by the supervisor and the manager, with final approval granted by the Executive Director.

In the event of an emergency, the thirty day notice requirement may be waived; however, the employee must submit in writing a leave of absence request no later than three working days after the first day of absence. If not done, the employee will be considered to have voluntarily resigned his/her position.

In addition the following conditions apply to these specific leaves:

Family and Medical Leave

In accordance with the provision of the Family and Medical Leave Act, (FMLA), employees who have worked for the Corporation for at least twelve months and for at least 1,250 hours (approximately 25 hours per week) during the twelve month period prior to a requested leave, are eligible for:

Up to 12 weeks unpaid leave during any 12-month period To care for a newborn, a newly adopted or newly placed foster child To care for a child, a spouse or a parent who has a serious health condition* To deal with the employee's own serious health condition if the employee is unable to perform

the functions of his or her position Continuation of health care benefits during the approved leave as if the employee were continuously employed Restoration of the employee to his or her own job, or its equivalent, including equivalent employment benefits and pay at the conclusion of the leave.

A thirty-day notice of the need for family leave is required when practicable and possible. The Corporation will require that any family medical leave request be supported by a certification from the appropriate health care provider, and may require additional certification(s) during the leave and upon return to work. In accordance with the FMLA, the Corporation may deny family and medical leave to those in the highest paid 10% of the Corporation's work force.

The Corporation will require that paid sick leave be substituted for the unpaid leave before the unpaid leave begins. If such leave lasts for less than 12 weeks, the additional weeks necessary to total 12 weeks will be unpaid leave.

*Appendix B defines both "serious health condition" and family relationships included under Family and Medical Leave.

Important Definitions - Family and Medical Leave

Serious Health Condition: A serious health condition is defined as an illness, injury, impairment, physical or mental condition that 1) involves inpatient care in a hospital, hospice or residential facility or 2) involves continuing treatment from a health care provider.

Family Relationships: The Act specifically defines the parent/child relationship as including stepchildren and stepparents, legal wards and guardians, and those standing in loco parentis. A child is defined as a son or daughter under the age of 18, but includes children over the age of 18 who are incapable of self-care due to a physical or mental disability. The Act defines a spouse as a husband or a wife. The Act does not specifically address other “alternative lifestyle” relationships.

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