

This Agreement is made between Local 32BJ, Service Employees International Union (“Union”) and NYC School Support Services (“Employer”).

### **Article 1. Recognition**

1.1 The Employer recognizes the Union as the exclusive collective bargaining representative of all custodial employees employed by the Employer in the “Cleaner” and “Handyperson” classifications currently represented by the Union, excluding supervisors and managers, and firepersons and stationary engineers in buildings with a floor area greater than 55,000 square feet.

1.2 Upon the execution of this Agreement, the Employer will provide the Union with a list of all locations subject to the Agreement. Upon the Union's written request, except to the extent prohibited by law, the Employer will provide the Union in writing for each location the name, address, job classification, pay rate and shift of each employee assigned to each location. The Employer will, upon request, update this information at reasonable intervals.

1.3 The Employer will cooperate with the Union to arrange for Union representatives to have access to all work sites covered by this Agreement. At each site, a bulletin board shall be furnished by the employer for union announcements and notices of meetings.

1.4 The Employer will recognize any Shop Stewards designated by the Union for matters that the Union authorizes Shop Stewards to handle.

1.5 The parties shall convene a labor management committee that will meet quarterly. Union members may use paid time off for time spent in attendance at these meetings. The Employer will not otherwise be responsible to pay employees for their attendance at these meetings.

### **Article 2. Union Security and Dues**

2.1 It shall be a condition of employment that all employees covered by this Agreement shall become and remain members in the Union on the thirty-first (31<sup>st</sup>) day following the date this Article applies to their work-location or their employment, whichever is later. The requirement of membership under this section is satisfied by the payment of the financial obligations of the Union's initiation fee and periodic dues uniformly imposed.

2.2 Upon receipt by the Employer of a letter from the Union's Secretary-Treasurer requesting an employee's discharge because they have not met the requirements of this Article, unless the Employer questions the propriety of doing so, the employee shall be discharged within fifteen (15) days of the letter if prior thereto the employee does not take proper steps to meet the requirements. If the Employer questions the propriety of the discharge, the Employer shall immediately submit the matter to the Arbitrator. If the Arbitrator determines that the employee has not complied with the requirements of this Article, the employee shall be discharged within 10 days after written notice of the determination has been given to the Employer.

2.3 The Employer agrees to deduct monthly dues, agency fees, initiation fees, American Dream Fund or Political Action Fund contributions, from the wages of an employee, when authorized by the employee in writing in accordance with applicable law. The Union will furnish to the Employer the necessary authorization forms.

At the time of hire or not later than upon the employee's becoming eligible, the Employer shall give to the new employees a packet, provided by the Union, containing a Union membership application form, check-off authorization form, and, where appropriate, benefit fund enrollment forms. The Employer will send to the Union offices those forms (or portions thereof) that the employee chooses to fill out and return to the Employer.

The terms "authorized" and "authorization" as provided in this Article includes authorizations or revocations created and maintained by use of electronic records and electronic signatures consistent with state and federal law. The Union, therefore, may use electronic records to verify Union membership, authorization for voluntary deduction of Union dues and fees, as well as voluntary contributions to the Union's American Dream Fund, from wages or payments for remittance to the Union, and authorization for voluntary deductions from wages or payments for remittance to the American Dream Fund. The Employer shall accept such electronic records from the Union as valid written authorizations for, or revocations of, deduction and remittance.

The Union shall provide any necessary training opportunity to the Employer to facilitate acceptance of electronic records as valid written authorizations or revocations for deduction and remittance.

2.4 The Union shall have the right to inspect the Employer's payroll records to determine the employees of the Employer who are covered by this Agreement.

2.5 The Union agrees to hold the Employer harmless and indemnified against any and all claims, liability or fault arising out of the Employer's compliance with this Article.

2.6 The Employer shall deduct and remit to the Union the dues or other monies in accordance with this Article by the twentieth (20th) day of the month in which they are due. If not paid, the Employer shall pay interest on such unpaid amounts at the rate of one percent per month beginning on the first day of the following month unless the Employer can demonstrate the delay was for good cause due to circumstances beyond its control.

2.7 If an employee does not revoke their dues check-off authorization at the end of the year following the date of authorization, or at the end of the current contract, whichever is earlier, the employee shall be deemed to have renewed their authorization for another year, or until the expiration of the next succeeding contract, whichever is earlier.

2.8 The Employer shall maintain accurate employee information and transmit dues, initiation fees and all legal assessments deducted from employees' paychecks to the Union via

ACH or electronic funds transfer utilizing the 32BJ self-service portal, unless the Union directs in writing that dues be remitted by other means. The transmission shall be accompanied with information for whom the dues are transmitted, the amount of dues payment for each employee, the employee's wage rate, the employee's date of hire, the employee's location or location change, whether the employee is part-time or full-time, the employee's social security number, the employee's address and the employee's classification. The Union shall maintain this information confidentially. The Union shall provide any necessary training opportunity to the employer to facilitate electronic transmissions.

### **Article 3. Discharge/Discipline**

3.1 Employees shall not be discharged, suspended or otherwise disciplined by the Employer without just cause after a one hundred twenty (120) calendar day probationary period. This provision shall not apply to employees hired solely as vacation replacements in accordance with Article 12. Where an employee is disciplined or discharged due to poor work performance, the Union may raise unreasonable workload as a defense.

3.2 Except where an employee engages in willful misconduct, the Employer will provide each post-probationary employee at least two weeks notice of the termination of their employment. The Employer shall give any post-probationary employee discharged or disciplined a written statement of the grounds for the discharge or discipline within five working days after the discharge or imposition of discipline. A copy of the statement shall be sent to the Union at the same time.

3.3 The Employer shall have six (6) months from the end of the employee's one hundred twenty (120) day probationary period to verify that the employee meets the requirements of the Employer and the Department of Education with respect to the health and prior criminal record of the employee. Failure to meet the Employer and Department of Education requirements shall be cause for discharge. The Union may grieve and arbitrate only (1) whether there is sufficient nexus between the prior criminal record and the individual's employment in the school system that would justify termination of the individual's employment, consistent with Article 23A of the Correction Law and Section 296 of the Executive Law; and (2) whether the individual's health renders them unable to perform the essential functions of the job.

3.4 The Employer reserves the right to suspend an employee without pay when the Employer learns of an employee's arrest or that the employee is subject to investigation by a Department of Education or outside investigative office. When arrested, the employee must report their arrest according to the Employer's policy (and the employee must report any pending arrest that predates their employment), and the Employer shall assess whether the employee shall be suspended with or without pay or returned to work. Except where prohibited by law, the Employer shall promptly notify the Union of the arrest and/or investigation that has prompted the suspension of the employee and shall provide all relevant information in the Employer's possession related to the underlying facts. The Union may grieve and arbitrate (1) whether the arrest and/or investigation warrants suspension; and/or (2) in the event that the proceeding connected with the arrest or investigation is resolved in the individual's favor, a claim that the

employee be made whole for any loss of pay or benefits relating to the suspension.

#### **Article 4. Wages**

4.1 Each employee shall be paid the wage rates in the applicable Prevailing Wage Schedule promulgated by the Comptroller of the City of New York (“PWS wage rates”) applicable to the employee’s classification. Employees who substitute for an employee in a higher classification shall be paid for that work at the rate applicable for the higher classification. For wage rates see Appendix A.

4.2 All wages, including overtime, shall be paid bi-weekly by check, with an itemized statement of payroll deductions. Employees will be paid on a one-week payroll lag – e.g. the paycheck of August 26, 2016 covers work performed through August 19th. If a regular payday falls on a holiday, employees shall be paid on the preceding day. Provided there is no cost to the employee, the Employer may require that an employee’s check be electronically deposited at an employee’s designated bank or a paycheck card may be utilized. The Union shall be notified in advance by the Employer of this arrangement. If the Employer utilizes direct deposit or a paycheck card, the Employer shall give employees access to a computer terminal at each school building to view and print a copy of the employee’s paystub.

4.3 An employee may be regularly assigned to perform boiler, standpipe and/or sprinklers duties only if (1) the employee holds the requisite license(s) and/or certificate(s); (2) such duties are performed in a school 55,000 square feet or smaller in size; and (3) the Employer pays the employee a lump-sum payment of five-hundred dollars (\$500) no later than December 1 of each year the employee performs such duties, in addition to the employee’s regular wages.

4. Subject to the principles set forth below, the Employee and the Union agree that in the event that an Employee (on behalf of the Employee and/or others) asserts statutory wage and hour claim(s) against the Employer(s), including claims for unpaid minimum wages and/or overtime pay, prior to the filing of any such claim(s) in court, the Employer and Employee shall engage in mandatory mediation to attempt to narrow or resolve the claim(s). The mediation process established by the RAB and Union for handling such claims shall apply and shall include the following:

1. The Employee(s) must initiate mediation by written notice to the Employer, or the Employer must initiate mediation by written notice to the Employee(s) and Employee's counsel, as appropriate.

2. Initiation of mediation shall be required only of Employees who are (or who will seek to be) plaintiffs in an individual or multi-plaintiff action or named or representative plaintiffs in a putative class and/or collective action. Employees who are not (and will not seek to be) named or Representative plaintiffs (e.g., who are merely putative class or collective action members) are not required to initiate mediation in connection with this section; however, the Employees' claims will be a subject of the mediation process described in this section.

3. Unless otherwise agreed to by the mediating parties, at any time following ninety (90) days after the initiation of the mediation process, either the Employer or the Employee(s) may terminate mediation by written notice to the other side, and, in that event, no further mediation effort shall be required by this Agreement.

4. In the event that Employee(s) initiate litigation in a judicial forum on the Employee's wage and hour claims without first submitting to the mediation process described in this section and the Employer seeks to enforce the requirements of this paragraph, the Employer shall not seek dismissal of the judicial action but may seek to have the action stayed pending the completion of the mediation provided for herein.

5. The parties do not intend an Employee's substantive or recovery rights or any Employer defenses to be limited by virtue of the terms of this mediation process. Hence, during the pendency of the mediation process, any statutes of limitations and/or filing periods shall be tolled, and recovery of appropriate damages shall be permitted for all time periods during which mediation is occurring or has occurred. To the extent that the tolling described in this paragraph is deemed legally ineffective, and without conceding that any recovery is appropriate, the Employee(s) shall have the contractual right to seek recovery for any time period(s) that would have been tolled without having to exhaust the grievance and arbitration procedures set forth in this Agreement.

6. The RAB or NYCSSS and the Union shall provide affected Employee(s) and the Employee's Employer(s) with a list of mediators who will be available to conduct the mediation. The mediator's fees shall be paid for by the RAB or NYCSSS and the Union in equal shares. The parties shall be free to use another mediator of the parties' own choosing but in that event shall bear the costs of mediation as they determine.

7. The conduct of the mediation shall be confidential and the rules of evidence pertaining to privileges related to settlement discussions shall apply to communications in mediation.

8. Any agreement reached in mediation shall not alter the collective bargaining agreement or affect the contractual rights of employees who are not parties to that agreement.

## **Article 5. The Workweek, Hours, & Assignments**

5.1 The workweek for full time employees shall consist of five (5) consecutive days.

5.2 The work day for full time employees shall be eight (8) hours with two paid fifteen minute breaks and a one half hour unpaid lunch period as close to the middle of the shift as practical. There shall be no split shifts without the Union's consent, but the Employer may maintain all current arrangements where an employee has two or more part-time schedules at different schools. In addition, any employee with a part-time schedule may apply for and be offered an additional part-time position. Employees in the following categories may waive the requirement of a 30-minute break, and such voluntary waiver, if approved by the Employer, will not be deemed to be a violation of this Agreement, and shall constitute a waiver of the

requirement set forth in New York Labor Law Section 162(2): (a) employees who work six (6) hours per day; (b) employees who work a holiday; (c) employees who are not permitted to leave the building during their shift; and (d) employees who work on a Saturday or Sunday. An employee's waiver request shall not be unreasonably denied. It is not the intent of the parties to expand the number of employees to whom this section will be applicable.

5.3 Each employee shall be assigned a regular shift. Except for temporary changes in employees' start times due to construction or for weather-related reasons, or by mutual consent, an employee's start time shall be the same each day. An employee's shift may only be changed upon two weeks' notice to the employee and the Union, except that the Employer may change all employees' schedules at the beginning of the summer or other school breaks for the duration of the break period. An employee's shift may not be changed arbitrarily or for abusive or punitive reasons. It is further understood that there will not be substantially disparate workloads amongst employees in the same classification on the same shift at the same work site.

5.4 Where the same custodian engineer is responsible for more than one school, assignments may include work in more than one school. When the employee is required to travel from one school to another during the workday, (1) The Employer shall pay for travel time between schools, and shall reimburse employees for any public transportation costs incurred for travel between schools; (2) The Employer shall also pay employees for time to return to the site where the employee started the work day if the employee's car is parked at that site, provided the Supervisor approves such arrangement in advance.

5.5 Except for employees who have a regular assignment at more than one school, employees may only be required to work in another school if (1) there is an emergency in the other school that requires redeployment; (2) the Employer shall pay for travel time between schools, and shall reimburse employees for any public transportation costs incurred for travel between schools; and (3) the employee is permitted to end the day at the school where (s)he started.

5.6 When the Employer decides that it has an imbalance of personnel at schools in a school district, it can move a position from one school to another provided:

A. The individual affected does not suffer a reduction in the number of regularly scheduled hours.

B. The Employer selects the person to be moved by going to volunteers first (the senior qualified volunteer, based on building seniority within the classification, will be selected); if there are no volunteers, the junior person, based on building seniority within the classification, will be selected.

C. The position is transferred to a school that is in the same school district or within 2 miles of the school where the position had been before the transfer.

5.7 Any work performed in excess of eight (8) hours in one day or forty (40) hours in

a week, or on a Saturday or Sunday, shall be paid at time and one half the employee's regular rate.

5.8 Overtime shall be offered to all employees within the classification in rotation by seniority.

5.9 Any employee called in to work on a holiday, or on Saturday or Sunday, or at a time outside the employee's regular shift shall be guaranteed a minimum of two hours paid time.

5.10 Employees shall be paid for time spent in training required by the Employer. Training of employees required by the Employer may be provided by the Thomas Shortman Training, Scholarship and Safety Fund, to the extent offered by the Fund. The Employer and Union shall request that the Fund provide the Employer with confirmation of employees' completion of required training. To the extent required training is provided by someone other than the Funds, the Employer shall request of the New York City Department of Education training attendance records, and provide employees, upon their request, computer access for any training requiring use of a computer.

## **Article 6. Sick Leave**

6.1 All employees shall be entitled to sick leave in accordance with the applicable prevailing wage schedule. During the first year of employment, sick leave shall be earned at the rate of one day per month up to a maximum of ten days. After one year of employment, sick leave shall be earned at the rate of two days per month up to a maximum of ten days per year. Sick leave shall be cumulative from year to year to a maximum of one hundred days. Any days in excess of one hundred will be cashed out at the time they accrue. Sick leave may be used for the employee's own illness or medical treatment, or up to three days per year for the care or treatment of a family member.

6.2 For an absence of more than three consecutive work days, the employee shall, as soon as practicable upon the employee's return to work, submit to the Employer a written doctor's note regarding the employee's absence from work. The failure to supply said doctor's note within five (5) days of the return to work will automatically result in the forfeiture of sick pay for the days absent. An employee is responsible for immediately notifying the employee's supervisor of a sick leave absence, and probable duration of such absence. In addition, when an employee is absent for more than five consecutive work days, the employee, or someone on behalf of the employee, shall keep the Employer informed of their anticipated return to work date on a weekly basis, unless impracticable, in which case, as often as practicable.

6.3 Employees will each receive credit for all accrued, unused sick leave while working for a Custodian Engineer or a predecessor cleaning contractor. The time accrued while working for a Custodian Engineer will be maintained in a separate bank and must be utilized after sick leave accrued while working for the Employer. If an employee leaves employment for any reason, the employee shall receive one day's pay for each two days of unused sick leave accumulated while working for a Custodian Engineer, paid at the salary rate in effect on August 11, 2016, and one day's pay for each unused sick day accumulated while working for the Employer or a predecessor contractor.

6.4 Employees employed less than forty hours a week on a regular basis shall receive a pro rata portion of sickness benefits computed on a forty hour workweek.

6.5 Regular employees employed pursuant to this Agreement, with less than one year of service shall be advanced up to three (3) paid sick or other paid time off from the allotment they receive upon their first anniversary to obtain a maximum of seven (7) paid in their first year of employment for the purpose specified in the New York Paid Sick Leave Law, N.Y. Labor Law § 196-b, and New York City Earned Safe and Sick Time Act, N.Y.C. Admin. Code § 20-911, et seq. The parties agree that on an annual basis, the paid leave benefits provided under this Agreement are comparable to or better than those provided under the New York City Earned Safe and Sick Time Act, N.Y.C. Admin. Code § 20-911, et seq., and the New York Paid Sick Leave Law, N.Y. Labor Law § 196-b.

6.6 An employee may donate sick leave accrued while working for the Employer to a co-worker who has exhausted their sick leave allotment provided the donating employee has at least 50 days of accrued sick leave following the donation. The recipient will be credited with one day of sick leave for every two days of donated sick leave.

6.7 WORKERS' COMPENSATION – In accordance with Article 10-A of the New York Workers' Compensation Law, §350, et seq., the Employer shall be permitted to contract with a preferred provider organization (PPO) to deliver all medical services mandated by the Workers' Compensation Law. The Employer and employees may exercise all rights granted to them under Article 10-A.

### **Article 7. Vacations**

7.1 All employees shall accrue vacation with pay as follows:

<b>Seniority</b>	<b>Vacation with Pay</b>
3 months – 1 year	5 days
After 1 year	13 days
After 5 years	20 days
After 20 years	21 days
After 21 years	22 days
After 23 years	25 days



7.2 At the discretion of the Employer, an employee may be permitted to utilize vacation time between April 15 and September 15 prior to its having been accrued, even if the result is that the employee temporarily ends up with a negative vacation balance. In no event shall an employee's negative vacation balance be permitted to exceed 10 days. Requests for such negative balance leaves between April 15th and September 15th shall not be unreasonably denied. Nothing in this Agreement prevents the Employer, at its discretion, from authorizing negative vacation balance leaves between September 15th and April 15th.

7.3 Vacation pay shall be based on the employee's straight time hourly earnings in the 8 weeks immediately preceding the vacation period.

7.4 If a holiday falls during a scheduled vacation the employee at their option shall receive either an extra day's pay or an extra vacation day off with pay to be taken in the same manner as a personal day.

7.5 Time off for vacations shall be scheduled giving preference by seniority, provided the employee submits a timely request. The Employer reserves the right to approve or deny vacation requests based on the proper operation of the facility, but permission shall not be unreasonably denied. The Employer reserves the right to impose a vacation blackout during the two weeks preceding and following the first day of school.

7.6 The Employer and the Union shall convene a Labor Management Committee during the term of this Agreement to address how the historical vacation banks of the employees may be reduced.

**Article 8. Holidays**

8.1 Effective upon employment by NYCSSS, the holiday schedule for the 2021-2022 school year shall be as follows:

<b>Holiday</b>	<b>Day of Week</b>	<b>Date</b>
Independence Day	Monday	7/5/2021
Eid al-Adha	Tuesday	7/20/2021
Labor Day	Monday	9/6/2021
Rosh Hashanah	Tuesday	9/7/2021
Rosh Hashanah	Wednesday	9/8/2021
Yom Kippur	Thursday	9/16/2021
Columbus Day	Monday	10/11/2021
Veterans Day	Thursday	11/11/2021
Thanksgiving	Thursday	11/25/2021
Thanksgiving	Friday	11/26/2021
Christmas Day	Friday	12/24/2021
New Years Day	Friday	12/31/2021
Martin Luther King Day	Monday	1/17/2022

Lunar New Year	Tuesday	2/1/2022
Lincoln's Birthday		REMOVED
Presidents Day	Monday	2/21/2022
Good Friday	Friday	4/15/2022
Eid al-Fitr	Monday	5/2/2022
Memorial Day	Monday	5/30/2022

8.2 Subject to paragraph 8.4, below, the tentative holiday schedules for the school years 2022-23 and 2023-24 shall be as follows:

2022/2023 Holiday

Holiday	Day of Week	Date
Independence Day	Monday	7/4/2022
Labor Day	Monday	9/5/2022
Rosh Hashanah	Monday	9/26/2022
Rosh Hashanah	Tuesday	9/27/2022
Yom Kippur	Wednesday	10/5/2022
Columbus Day	Monday	10/10/2022
Veterans Day	Friday	11/11/2022
Thanksgiving	Thursday	11/24/2022
Thanksgiving	Friday	11/25/2022
Christmas Day	Monday	12/26/2022
New Year's Day	Monday	1/2/2023
Martin Luther King Day	Monday	1/16/2023
Lincolns Birthday		As determined by DOE
Presidents Day	Monday	2/20/2023
Good Friday	Friday	4/7/2023
Memorial Day	Monday	5/29/2023
Eid al Adha	Thursday	6/29/2023
Floating Vacation Day (Lunar New Year)		

2023/2024 Holiday Schedule

Holiday	Day of Week	Date
Independence Day	Tuesday	7/4/2023
Labor Day	Monday	9/4/2023
Yom Kippur	Monday	9/25/2023
Columbus Day	Monday	10/9/2023
Veterans Day	Friday	11/10/23
Thanksgiving	Thursday	11/23/2023
Thanksgiving	Friday	11/24/2023
Christmas Day	Monday	12/25/2023
New Year's Day	Monday	1/1/2024

Martin Luther King	Monday	1/15/2024
Lincolns Birthday		As determined by the DOE
Presidents Day	Monday	2/19/2024
Good Friday	Friday	3/29/2024
Eid al-Fitr	Wednesday	4/10/2024
Memorial Day	Monday	5/27/2024
Eid- al- Adha	Monday	6/17/2024
Floating Vacation Day (Rosh Hashanah)		
Floating Vacation Day (Rosh Hashanah)		

8.3 If an employee is required to work on a holiday, the employee shall be paid additional compensation therefor at time and one-half (1 and ½) (equal to two and one-half (2 and ½) times the hourly rate).

8.4 In the event that the holiday schedule promulgated by the Department of Education for the school years 2021-22, 2022-23, and/or 2023-24 does not match the holidays listed in paragraph 8.2, the parties shall meet to establish paid holidays for each succeeding school year, with the understanding that (1) holidays shall conform to the holiday schedule and (2) there shall be a total of 18 paid holidays, and to the extent that there are fewer than 18 designated holidays, employees shall be entitled to a vacation day or days to make up the difference.

### **Article 9. Leaves of Absence**

9.1 Employees may request Emergency Leave of up to forty-five (45) days if they have been employed at least four (4) years. The Employer shall not unreasonably withhold approval of such leave. The Employer may request documentation of the emergency.

9.2 The Employer shall provide employees with leaves of absence for union related activities, where practicable, provided that such leave shall not be unreasonably denied. The Union and the Employer shall discuss the number and duration of such leaves of absence in any period of time.

9.3 Employees shall be entitled to a leave of absence for illness or injury covered by New York State Workers' Compensation Law of up to six (6) months. At the end of six (6) months of disability leave, an employee will be entitled to a six (6) month extension where the employee provides medical evidence of continuing disability and a reasonable likelihood of being able to return to work within six (6) months.

9.4 Employees with one or more years of seniority shall be entitled to a leave of absence for illness or injury of up to six (6) months. At the end of six (6) months of disability leave, an employee will be entitled to a six (6) month extension where the employee provides medical evidence of continuing disability and a reasonable likelihood of being able to return to

work within six (6) months. In addition, the Employer will comply with applicable state and federal family leave laws.

9.5 At the conclusion of any disability leave covered by either Section 9.3 or 9.4, the employee will be entitled to return to work in the same position held immediately prior to the leave of absence without a loss of seniority. In the event an employee's disability absence exceeds six (6) months, or one (1) year if the employee's disability leave has been extended, the Employer shall have the right to permanently replace such employee. Unless otherwise prohibited by law, the Employer may require an employee who is out on disability to furnish medical evidence of such continuing disability, and to submit to an independent medical examination as a condition of continued leave. Any employee who is out on long-term disability shall, upon the request of the employer, be required to furnish medical evidence of the most recent prognosis as to when such employee will be able to return to work. The failure of an employee to produce the above information after the written request of the employer will give the employer the right to permanently replace the employee.

9.6 In addition to the foregoing, employees with five years of service may, at their option, take an unpaid personal leave of up to 10 business days, to be scheduled at a time connected to an extended vacation. An employee intending to take such leave must provide at least 30 days notice prior to the commencement of the unpaid absence, or, if applicable, the vacation which immediately precedes it. The Employer reserves the right to approve or deny unpaid personal leave requests based on the proper operation of the facility, but permission will not be unreasonably denied. No employee shall be entitled to a personal leave more than once every three years, unless otherwise required by law.

9.7 Any employee requesting a leave of absence who is otherwise covered for health benefits shall be covered for health benefits during the period of the leave provided the employee requests health coverage while on leave of absence and pays the Employer in advance for the cost of same, except where the Employer is required by law to continue paying for health coverage.

9.8 Any employee otherwise covered for health benefits who is on leave due to Workers' Compensation shall continue to be covered for health benefits without the necessity of payment to the Employer in accordance with the rules of the Fund.

9.9 Use of accrued leave and/or statutory leave (e.g. leave covered under the Family Medical Leave Act) to cover an absence shall be concurrent with the leave of absence described in Sections 9.1 and 9.3 above.

9.10 Time spent on an unpaid leave of absence does not count toward completion of the probationary period or the forty-two month wage progression. In addition, employees do not accrue sick or vacation leave while they are out on unpaid leaves.

9.11 The Employer shall comply with the New York State Paid Family Leave Law, any implementing regulations, and any amendments thereto.

9.12 The Employer shall provide temporary schedule changes in accordance with the coverage and requirements of New York City Admin. Code § 20-1261 et seq., and the grievance and arbitration procedure shall be the sole and exclusive forum for any such claims and remedies. The ability to pursue remedies in any other forum is hereby waived.

### **Article 10. Bereavement Leave**

10.1 An employee with at least one (1) year of employment shall be entitled to bereavement leave in the event of a death in the employee's immediate family (parent, spouse, child, brother or sister, mother-in-law or father-in-law) the employee shall receive four working days off and shall be paid for any time lost from the employee's regular schedule or holiday pay as a result of such absence. Employees may request vacation time or unpaid emergency leave if they need additional time off due to a death in the family.

10.2 The Employer may demand a copy of the death certificate, letter from the funeral home, or other similar proof of death as a condition of paying bereavement leave.

### **Article 11. Jury Duty**

11.1 Employees shall be paid wages for their normal work day for each day during which they serve on jury duty. Any compensation received by the employee for jury duty service shall be deducted from the employee's regular daily wages paid for jury duty service. No employee shall be required to work on a day they have jury duty.

11.2 The Employer may demand a copy of the summons or other similar documentation as a condition of paying jury duty leave.

### **Article 12. Vacation Replacements**

12.1 A person hired in the cleaner classification solely for the purpose of relieving employees for vacation shall be paid sixty percent of the full (100%) applicable regular hourly wage rate for that classification. With respect to vacation replacements, the Employer, at its discretion, may elect to cover the space of the employee on vacation with less than the regular scheduled working hours. Should a vacation relief employee continue to be employed beyond five months, the employee shall be paid the wage rate of a new hire or an experienced employee, as the case may be. If a vacation replacement is hired for a permanent position immediately after working as a vacation replacement, time worked as a vacation replacement shall be credited toward completion of the period required to achieve the full rate of pay.

12.2 No contributions to any Benefit Funds shall be made for a vacation relief person, and they are not entitled to vacation or sick leave, except as required by law.

12.3 For purposes of this Article, the period where the vacation replacement rate may be paid is from April 15 through September 15. The Employer may utilize the vacation replacement rate only up to the total number of hours that unit employees have actually taken

vacation during the period. A regular employee need not be on vacation in the facility where the vacation replacement employee is utilized.

**Article 13. Benefit Funds**

13.1. The Employer shall make contributions into a health fund known as the “Building Service 32 BJ Health Fund,” a defined benefit fund known as the “32BJ Schools Pension Fund,” a training fund known as the “Thomas Shortman Training, Scholarship, and Safety Fund,” a legal services fund known as the “Building Service 32BJ Legal Services Fund,” and a supplemental retirement fund known as the “32BJ Supplemental Retirement and Savings Fund” (“SRSF”). The aggregate rate of contributions for all of these funds when combined with a mutually agreed upon hourly credit due to the Employer for paid vacation days, paid personal days, paid sick days, and paid holidays in excess of those required by the Prevailing Wage Schedule shall be the Supplemental Benefit Rate in the applicable Prevailing Wage Schedule promulgated by the Comptroller of the City of New York.

13.2. Beginning January 1, 2021, the Employer’s contributions to the Pension, SRSF, Legal and Training Funds shall be at the following hourly rates:

	Cleaner:	Handyperson:
Pension	\$2.177	\$2.177
SRSP	\$.590	\$.590
Training	\$.084	\$.084
Legal	\$.082	\$.082

13.3 Beginning January 1, 2021, the Employer shall be obligated to contribute to the Health Fund at the following rates:

CLEANERS:	
0-90 Days	\$0.000
4-12 Months	\$6.494
13-24 Months	\$9.313
Year 3 - 5 (months 25 - 60)	\$9.480
Year 6-15 (months 61 - 180)	\$9.085
Year 16-20 (months 181 - 240)	\$9.886
Year 21 (months 241 - 252)	\$9.726
Year 22 (months 253 - 264)	\$9.886
Year 23 (months 265 - 276)	\$9.565
Year 24 (months 277 - 288)	\$9.726
Year 25 (months 289-300)	\$9.886
Year 25+ (300 + months):	\$9.886

HANDYPERSONS:

0-90 Days	\$0.000
4-12 Months	\$9.486
Year 2-5 (months 13 - 60)	\$9.316
Year 6-15 (months 61 - 180)	\$8.975
Year 16-20 (months 181 - 240)	\$9.826
Year 21 (months 241 - 252)	\$9.656
Year 22 (months 253 - 264)	\$9.826
Year 23 (months 265 - 276)	\$9.486
Year 24 (months 277 - 288)	\$9.656
Year 25 (months 289-300)	\$9.826
Year 25+ (300 + months):	\$9.826

The contribution obligation to the Health Fund shall be fulfilled as followed: On a monthly basis, the Employer shall pay a “blended” rate of \$9.281/hour for Cleaners and \$9.501/hour for Handypersons. On a monthly basis, the amount of contributions received from the Employer shall be compared with the amount of contributions required pursuant to the grids above. In the event that this comparison shows that the Employer’s payment was greater than that due, the Employer shall receive a credit against future contributions in the amount of the overpayment and may take advantage of that credit in its next monthly payment to the Health Fund. In the event that the comparison shows that the Employer’s payment was less than that due, the Employer shall make an additional payment to the Health Fund in the amount of the underpayment, and shall make that additional payment with its next monthly payment to the Health Fund.

13.4 If the Employer fails to make required reports or payments to the Funds, the Trustees may in their sole and absolute discretion take any action necessary, including but not limited to immediate arbitration and suits at law, to enforce such reports and payments, together with interest and liquidated damages as provided in the Funds’ Trust Agreements, and any and all expenses of collection, including but not limited to counsel fees, arbitration costs and fees, and court costs.

13.5 By agreeing to make the required payments into the Funds, the Employer hereby adopts and shall be bound by the Agreement and Declaration of Trust as it may be amended and the rules and regulations adopted and hereafter adopted by the Trustees of each Fund in connection with the provisions and administration of benefits and the collection of contributions. The Trustees of the Funds shall make such amendments to the Trust Agreement, and shall adopt such regulations, as may be required to conform to applicable law.

13.6 There shall be no Employer contributions to the Health, Pension, SRSF, Legal Services, and Training Funds on behalf of new hires during their first 90 days of employment.

13.7 Covered employees shall be eligible to contribute pre-tax earnings to the SRSF. Employees who did not, prior to the date of execution of this Agreement, elect to contribute pre-tax earnings to the SRSF may not elect to do so retroactively, i.e., effective prior to the date of

execution of this Agreement, but may elect to contribute pre-tax earnings prospectively, *i.e.* after the date of execution of this Agreement.

13.8 “Length of Service” for purposes of fund contributions shall mean length of service in a New York City Department of Education building working in a classification covered by this Agreement, including periods employed by a contractor or a Custodian Engineer. A period of unemployment will result in a break in “Length of Service” where permitted under the Prevailing Wage Schedule.

13.9 Effective January 1, 2021, on a monthly basis, the Employer shall pay a “blended” rate of \$9.281/hour for Cleaners. On a monthly basis the employer should pay a “blended” rate of 9.501/hour for Handypersons. The parties shall meet annually during the term of this Agreement for the purpose of negotiating the hourly rates to take effect on January 1, each year of the Agreement, which, when combined with a mutually agreed upon hourly credit due to the Employer to account for paid vacation days, paid sick days and paid holidays in excess of those required by the Prevailing Wage Schedule shall not exceed the applicable Supplemental Benefit Rate.

13.10 The parties may mutually agree to reallocate the rates of contributions among the benefit funds, provided that the aggregate contribution to all benefit funds remains the same.

#### **Article 14. Employment Transition**

14.1 The June 24, 2016 Memorandum of Agreement between the Union and the City of New York and the New York City Department of Education is made part of this Agreement. Any dispute between the Union and the Employer regarding that agreement other than the dispute referenced in paragraph 8 of that agreement will be subject to the grievance and arbitration provision of this Agreement.

14.2 Employees retained by the employer shall be given credit for length of service with the predecessor employer(s) for all purposes including but not limited to seniority and vacation entitlement, wage progression, and completion of the probationary period.

#### **Article 15. Reductions in Force**

15.1 The Employer shall not reduce the workforce or the number of hours at any location either through attrition or lay-off without first providing at least ten business days written notice to the Union. The notice shall set forth the reason for the reduction, and an explanation of how the Employer intends to complete the required work following the reduction.

#### **Article 16. Seniority, Bumping, Layoff & Recall**

16.1 After completion of the probationary period, an employee shall attain seniority as



of the employee's date of employment. Seniority of an employee for all purposes, including satisfaction of the probationary period shall be based upon total length of service in a covered or equivalent job classification within the New York City Public School system.

16.2 When a position is eliminated at a school and not transferred to another school, individuals shall be selected for reduction in the following order: First, any person who holds a full-time job with the Department of Education that pays the same or higher rate of pay (if there is more than one such person in the classification that is being reduced, the person with the least building seniority in the classification will be selected first), and these employees will not have bumping rights; second, the person with the least seniority in the classification, based on building seniority – i.e. length of service in the classification in the building.

16.3 In the event of a reduction in force at one building, if there is an open position in the same classification within the borough with the same shift and same or greater number of hours, the employee may be transferred to that open position at the Employer's discretion. If there is no appropriate open position, any affected employee with at least one year of seniority may bump the least senior employee in the borough within the classification subject to this Agreement, or choose to be placed on the recall list.

In the event of a reduction in force of more than five percent (5%) of the workforce, the Employer shall provide the Union at least two weeks' notice of the reduction, or more notice if feasible. Seniority will be determined on a borough-wide basis, and layoffs will be conducted in reverse seniority order by classification.

If there is a layoff caused by the COVID-19 pandemic of more than 5% of the workforce, layoffs shall occur in the following manner:

- a. The Employer may offer employees temporary reassignment to other City agencies, if such work is available, in lieu of layoff. Employees who volunteer for temporary assignment at other City agencies shall not be subject to lay off or bumping while they are working on such assignment, but in the event that the assignment ends and they are otherwise subject to layoff pursuant to this section 5, they shall either be laid off in accordance with section 5(c) or reassigned in accordance with section 5(d).
- b. The Employer shall select from employees who choose to volunteer for layoff;
- c. If there are an insufficient number of volunteers, employees with the least Borough-wide seniority within classification shall be laid off;
- d. Employees may be temporarily reassigned to other schools within their borough.
- e. Any employee laid off or temporarily reassigned (including those who bumped into another school or position) shall have the right to be recalled to their former school and position with no loss of seniority (including building seniority) once their position is restored.

16.4 Any employee who has been employed for one (1) year or more who is laid off, including an employee on disability or Workers' Compensation leave, shall have the right of

recall to any vacant bargaining unit position in the borough, provided that the period of layoff of such employee does not exceed twelve months. Recall shall be by seniority. In the event any employee does not accept recall, successive notice shall be sent to qualified employees until the list of qualified employees is exhausted. An employee may turn down a position in a different borough or that provides fewer hours and remain on the recall list. Upon reemployment, full seniority status shall be credited to the employee. An employee on the recall list who turns down a position within the borough with at least the same number of hours shall be placed at the bottom of the recall list; if the employee turns down a second offered position within the borough with the same number of hours, the employee will be removed from the recall list.

16.5 Seniority rights are lost if any employee quits, is discharged for cause, fails to report or communicate within seven business days after notice of recall, or is laid-off for more than twelve months, except that where a layoff affects more than three percent of the workforce, employees will retain their seniority rights for twenty-four months.

### **Article 17. Vacancies**

17.1 The Employer shall post all vacancies. The Employer shall endeavor to cooperate with the New York City Department of Education to post all vacancies and newly created positions, and email such vacancies and open positions to employees employed in the building where they occur

17.2 In filling vacancies or newly created positions in the bargaining unit, preference shall be given to those employees already employed in the building, based upon the employee's seniority, but training, ability, work performance, and experience, where required, shall also be considered.

17.3 If the position is not filled by an employee in the building, preference shall be given to other employees in the bargaining unit, based upon seniority, but training, ability, work performance, and experience, where required shall also be considered. For purposes of this Section 17.3, the selection of one of the three most senior applicants for promotions shall not be subject to the grievance procedure. An employee who accepts a transfer to a position in another school within the same job classification may not seek another transfer to a position within the same job classification to any other school within twelve (12) months of the last transfer.

17.4 If the position is not filled by an employee currently in the bargaining unit, preference shall be given to a bargaining unit member on the recall list based on seniority, but training, ability, work performance, and experience, where required, shall also be considered.

17.5 This process need not be followed with respect to a vacancy created because an employee has successfully bid and received assignment to a vacant position. The vacancy created by such a move may be filled by the Employer in the manner the Employer sees fit, provided that individuals on the recall list shall be given preference over new hires.

17.6 All vacancies and newly created positions shall be subject to an electronic posting

by the Employer for a period of seven (7) calendar days so that bargaining unit employees can express an interest in filling the position. As soon as practicable, the Employer will ensure that employees have access to postings that will enable them to review postings promptly.

17.7 The Employer shall have the ability to establish the skills required for a particular position, but any necessary or preferred skills must be included in the job posting.

### **Article 18. Uniforms & Changing Rooms**

18.1 If the Employer requires the employees to wear uniforms, the Employer shall provide wash and wear uniforms without cost to the employees and the Employer will be required to provide for their maintenance. Upon termination of employment, employees shall return their uniforms to the Employer.

18.2 If the Employer requires employees to wear uniforms, the Employer will provide employees with changing rooms.

### **Article 19. Health and Safety**

19.1 The Employer shall provide and maintain a safe and healthy work place for all employees, and the Employer shall comply with all federal, state and local laws relating to health and safety. The Employer will provide all necessary supplies and protective gear free of charge. The Employer shall provide appropriate equipment to all employees who clear snow.

### **Article 20. Successors, Assigns and Subcontracting**

20.1 The Employer shall not subcontract, transfer, lease or assign, in whole or in part, to any other person, firm, corporation, partnership, or non-unit workers, bargaining unit work presently performed or hereafter assigned to employees in the bargaining unit, unless the Employer ensures that such entities employ bargaining unit employees under wages and benefits that are no less than those provided under this Agreement. The parties recognize that Custodian Engineers and/or the Department of Education have heretofore engaged Department of Education employees and independent contractors to perform certain kinds of work that bargaining unit members also perform. This provision is not meant to prohibit the continued utilization of Department of Education employees or independent contractors that is consistent with the established past practice of Custodian Engineers and/or the Department of Education.

20.2 In the event the Employer sells or transfers all or any part of its business or accounts which are subject to this Agreement, the Employer shall require the acquiring employer to assume this Agreement.

20.3 To the extent permitted by law, this agreement shall be binding on any other entities that the Employer or its principals establishes or operates which perform work subject to this Agreement.

## **Article 21. Non-Discrimination**

21.1 There shall be no discrimination against any present or future employee by reason of race, creed, color, age, disability, national origin, sex, sexual orientation, union membership, or any characteristic protected by law.

21.2 The Employer's Anti-Discrimination Policy, included in full at Appendix B, must be posted in each school where employees are able to view it.

### 21.3 No-Discrimination Protocol

#### (1) Protocol

The parties to this Agreement, the Union and the Employer, believe that it is in the best interests of all involved – employees, members of the Union, employers, the Union, the Employer and the public interest – to promptly, fairly, and efficiently resolve claims of workplace discrimination, harassment and retaliation as covered in the No Discrimination Clause of the relevant collective bargaining agreement (collectively, “Covered Claims”). Such Covered Claims are very often intertwined with other contractual disputes under this Agreement. The Employer maintains that it is committed to refrain from unlawful discrimination, harassment and retaliation. The Union maintains it will pursue its policy of evaluating such Covered Claims and bringing those Covered Claims to arbitration where appropriate. To this end, the parties establish the following system of mediation and arbitration applicable to all such Covered Claims, whenever they arise. The Union and RAB want those covered by this Agreement and any individual attorneys representing them to be aware of this Protocol.

#### (2) Mediation

(a) Whenever a Covered Claim is brought alleging that an employer has violated the No Discrimination Clause (including, without limitation, claims based on a statute relating to workplace equal opportunities), whether such a Covered Claim is made by the Union or by an individual employee, notice shall be provided by the party seeking to utilize this Protocol of such a Covered Claim (“Notice of Claim”) to the other Parties (for purposes of this section, “Parties” shall be defined as the Union and the Employer, and the affected employee(s)), and the matter shall be submitted to mediation, absent prior resolution through informal means. A Notice of Claim shall be filed within the applicable statutory statute of limitations, provided that if an employee has timely filed such Covered Claim in a forum provided for by statute, it will not be considered time-barred. The Notice of Claim must be filed with the administrator of the Office of the Contract Arbitrator (“OCA”), which currently has an address of 370 Seventh Avenue, Suite 301, New York, NY 10001.

(b) Promptly following receipt of the Notice of Claim, the administrator of OCA shall appoint a Mediator from the Mediation Panel described below. All mediators on the panel shall be attorneys with appropriate training and experience in the conduct of mediations and significant knowledge of employment discrimination statutes. The Mediation Panel shall be a distinct panel

from the Contract Arbitrator Panel (see 2018 Apartment Building CBA, Article VI, Paragraph 8). A person listed on the Mediation Panel will be removed when either the Union or the RAB gives notice to the other party that such person's name shall be removed. A person may be added to the Mediation Panel list upon mutual agreement of the Union and the RAB. The Union and RAB mutually commit to appointing mediators with appropriate skill and experience, as they view mediation as the important step through which many Covered Claims will be resolved.

(c) OCA shall appoint a Mediator from the Mediation Panel. Such appointments shall be made by a random selection (e.g. "spinning the wheel") of available panel members.

(d) Within 30 days of being appointed, the Mediator shall notify the Parties of the appointment and schedule a pre-mediation conference (for the purposes of this Paragraph and the remainder of this section, "Parties" refers to the bargaining unit member or Union asserting the Covered Claim, and the Employer). At the conference, the Parties shall discuss such matters as they deem relevant to the mediation process, including discovery. The Mediator shall have the authority, after consulting with the Parties, to (1) schedule dates for the exchange of information and position statements prior to a mediation, and (2) schedule a date for mediation. Any disputes relating to the issues to be mediated, the exchange of information and position statements, and the date, place, and time of the mediation and any in-person, telephonic, or other meetings relating to the mediation shall be decided by the Mediator. In the event the Mediator concludes that there has not been good faith compliance with a directive, including directives as to the holding of conferences and the conduct of discovery, the Mediator may, after notice and an opportunity to be heard, order appropriate remedies, including monetary and other sanctions. Such remedies and sanctions may be considered by the arbitrator in a subsequent proceeding in the arbitrator's discretion.

(e) The entire mediation process, including any settlement terms proposed by the Mediator, is a compromise negotiation for the purposes of the Federal Rules of Evidence and the New York rules of evidence.

(f) At the mediation, each Party shall be entitled to present witnesses and/or documentary evidence. The Mediator shall be entitled to meet separately with each Party for the purpose of exploring settlement.

(g) At the conclusion of the mediation, the Mediator shall recommend settlement terms to the Parties on request of any Party. Neither Party shall be required to accept such a proposal.

(h) Mediation shall be completed before the Covered Claim is arbitrated on the merits. However, if the Union alleges the Covered Claim of a violation of the No Discrimination Clause, the Union may proceed directly to arbitration without Mediation if it so chooses.

(i) The fees of the Mediator shall be split equally between the Union and the Employer. The Union and Employer shall provide language interpreters at their jointly shared cost.

### (3) Arbitration

(a) The undertakings described here with respect to arbitration apply to those circumstances in which the Union has declined to arbitrate an employee's individual employment discrimination claim under the No Discrimination Clause of the CBA, including statutory claims (i.e., a Covered Claim), to arbitration. The arbitration forum described here will be available to employers and employees, both those who are represented by counsel and those who are not represented by counsel.

(b) The Union and the RAB have received and vetted from the American Arbitration Association ("AAA") a list of arbitrators who (1) are attorneys, and (2) are designated by the AAA to decide employment discrimination cases. In the event that arbitration of a Covered Claim based on statutory discrimination in the circumstances described in paragraph A is sought by these parties, the list of arbitrators provided by the AAA shall be made available to the individual employee and the RAB member employer by the administrator of OCA. The manner by which selection is made by the RAB member employer and the individual employee and the extent to which each shall bear responsibility for the costs of the arbitrator shall be decided between them. A person may be added to or removed from the Statutory Arbitration Panel list upon mutual agreement of the Union and the RAB. Any such arbitration shall be conducted pursuant to the AAA National Rules for Employment Disputes and any disputes about the manner of proceeding or the interpretation of this Protocol or the AAA Rules shall be decided by the arbitrator selected.

(c) The hearings in any such arbitration may be held at the OCA offices without charge to the parties; however, it is understood that OCA shall not be a forum for the determination of the dispute as provided for in the collective bargaining agreement, but, instead, will provide only the services set out in section (3) of this Protocol.

(d) Neither the Union nor the Employer will be a party to the arbitration described in this section (3) and the arbitrator shall not have authority to award relief that would require amendment of the CBA or other agreement(s) between the Union and the Employer or conflict with any provision of any CBAs or such other agreement(s). Any mediation and/or arbitration outcome shall have no precedential value with respect to the interpretation of the CBAs or other agreement(s) between the Union and the RAB.

#### (4) Mandatory Written Notification Before Union Members Attempt to Bring Any Covered Claim in Court, and Remedies for Failure to Provide Notice

(a) The Employer and the Union have agreed to the foregoing Protocol to provide interested parties a means to rapidly resolve or hear on the merits Covered Claims fairly. To make this system most effective, it is a mandatory prerequisite before any bargaining unit member attempts to file a Covered Claim in any court that the bargaining unit member (personally or through the bargaining unit member's attorney) notify in writing the Employer that the Employee is attempting to bypass the Protocol process. The notice required by this section (the "Bypass Notice") shall specify the Covered Claim(s) alleged with sufficient detail, the court where the action is to be filed, and the reason(s) for attempting to bypass the Protocol process.

(b) A copy of the Bypass Notice must be sent to: (a) the Employer and (b) NYCSSS, [insert address].

(c) Absent compelling good cause, the Bypass Notice must be mailed by first-class certified mail, return receipt requested at least 60 days before the bargaining unit member plans to commence a lawsuit in any court.

(d) Providing the Bypass Notice is a condition precedent prior to bringing a Covered Claim in any forum.

(e) Nothing contained in this Protocol will limit an employer or the Employer's remedies in the event of a breach of the Protocol or the CBA by an individual asserting a Covered Claim.

### **Article 22. Work Authorization and Status Disputes**

22.1 The parties recognize that questions involving an employee's work status or personal information may arise during the course of an employee's employment, and that errors in an employee's documentation may be due to mistake or circumstances beyond an employee's control. The parties agree to attempt to minimize the impact of such issues on both the affected employees and employers by working together to fairly resolve such issues while complying with all applicable laws.

### **Article 23. Grievance/Arbitration**

23.1 All disputes or differences involving the interpretation or application of this agreement that arise between the Employer and the Union shall be resolved as provided in this Article, except where otherwise provided in this Agreement.

23.2 All grievances shall be presented in writing (including by e-mail) within 60 calendar days after the Union has or should have had knowledge of the dispute, unless the parties agree to an extension or the Arbitrator finds good cause shown for an extension.

23.3 The parties shall hold a meeting on any unresolved grievance within thirty (30) days of filing the grievance. If the Employer does not make itself available for a meeting within that time frame, the Union may proceed to arbitration.

23.4 All unresolved grievances shall be subject to final and binding arbitration before an arbitrator selected from the arbitration panel of the Office of the Contract Arbitrator. The parties may add additional arbitrators to the panel by mutual agreement. Either party may initiate arbitration by notifying the other party in writing. All hearings shall be held at the Union's office unless otherwise agreed to by the Employer and the Union. The oath-taking and statutory notice provisions in the New York Civil Practice Law and Rules are waived.

23.5 The parties agree that there shall be no recordings or transcription of the arbitration hearings unless mutually agreed to by the Union and the Employer.

23.6 All grievants attending grievance hearings and arbitrations during their regularly

scheduled hours shall be paid their regular wages by the Employer. Employee witnesses shall be paid for lost time due to their participation in any arbitration hearing. This provision shall be limited to one employee witness.

23.7 The Arbitrator shall have the power to grant any remedy required to correct a violation of this Agreement, but shall not have the power to modify the Agreement. Unless the parties consent to an extension in writing, the Arbitrator shall issue an award in writing within thirty days after a hearing closes.

23.8 Should either party fail to abide by an arbitration award within two weeks after the award is delivered to the parties by the Arbitrator, the other may take any action it deems necessary to secure compliance with the Award, including filing suit to enforce the Award. If a court orders enforcement of an arbitration award, the prevailing party shall be entitled to recover its attorneys' fees and court costs from the other party.

#### **Article 24. Picket Line/No Strike Clause**

24.1 No employee covered by this Agreement shall be required to pass lawful primary picket lines established in an authorized strike, including picket lines established by Local 32BJ pursuant to an authorized strike against the Employer at another job location or against another employer performing services for the Employer or the Department of Education. The Employer may not permanently replace or discipline any employee who refuses to pass such a picket line.

24.2 There shall be no lockouts, and no strikes except that the Union may call a strike or work stoppage (a) after five (5) business days notice where the Employer has violated Section 1.1 of this agreement, or (b) where the Employer fails to comply with an Arbitrator's Award within three weeks after service of the award on the parties. Any strike over failure to comply with an Arbitrator's Award may be directed only to the particular school(s) affected by the Arbitrator's Award, and only for the purpose of obtaining compliance with the Award.

#### **Article 25. Employer and Employee Communications**

25.1. Employees are responsible to provide the Employer with their current home address, current phone number, current email address, and current cell phone number. Upon request of an employee who currently has no email address, the Employer shall assist the employee with creating one.

25.2. The Employer may send notices to employees by email to the fullest extent permitted by law. To the extent an employee response to a notice is required, the Employer shall also request that the New York City Department of Education provide the employee a copy of the notice in person, and the employee shall be required to respond to such copy.

25.3. Employee complaints to the Employer shall be made by email addressed to an employer representative, who the Employer shall identify to employees by email. If a complaint is not resolved within two (2) weeks of its receipt by the Employer, the Employer shall make



25.1. Employees are responsible to provide the Employer with their current home address, current phone number, current email address, and current cell phone number. Upon request of an employee who currently has no email address, the Employer shall assist the employee with creating one.

25.2. The Employer may send notices to employees by email to the fullest extent permitted by law. To the extent an employee response to a notice is required, the Employer shall also request that the New York City Department of Education provide the employee a copy of the notice in person, and the employee shall be required to respond to such copy.

25.3. Employee complaints to the Employer shall be made by email addressed to an employer representative, who the Employer shall identify to employees by email. If a complaint is not resolved within two (2) weeks of its receipt by the Employer, the Employer shall make available human resources personnel to discuss the complaint with the employee by phone. Employees shall not be required to exhaust the complaint procedure herein prior to utilizing the Grievance/Arbitration process set forth in Article 23.

**Article 26. Duration**

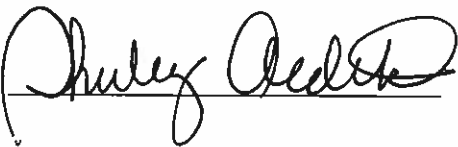
26.1 This Agreement shall be effective from July 1, 2021 through June 30, 2024.

**Article 27. Ratification**

27.1 This Agreement is subject to ratification by the members of the Union who are covered by this Agreement. The Agreement is subject to ratification by NYCSSS according to its rules, procedures, and bylaws.

SEIU Local 32BJ

NYC School Support Services

By: 

By: Stephen Brennan

Dated: 2/11/2022

Dated: 2/22/2022

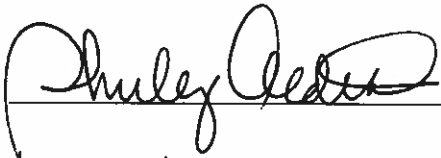
**Side Letter on Specialty Assignments (TA)**

In furtherance of the 2021 NYCSSS – Local 32BJ collective bargaining agreement, the parties agree as follows:

The parties will continue to discuss the creation of specialty assignments in which teams of Cleaners and/or Handypersons regularly travel among schools to perform specific tasks. Among the subjects of discussion will be (1) how personnel are selected for such an assignment; (2) what differential, if any, may be paid to employees working on such an assignment; (3) the geographic area covered by such teams; (4) what type of training will be provided for workers to perform the identified tasks; and (5) job protections for workers in case these teams are disbanded – e.g. bumping rights and/or right to return to prior positions. The Employer will not implement specialty assignment teams prior to negotiation of these issues.

SEIU Local 32BJ

NYC School Support Services

By: 

By: Stephen Brennan

Dated: 02/11/2022

Dated: 02/11/2022

Appendix A Wage Rates\*

**Effective January 1, 2021:**

Cleaner:	
Less than 22 months of employment:	\$20.90
22 to 42 months of employment:	\$23.69
After 42 months of employment:	\$27.87
Handyperson:	\$30.45

**Effective January 1, 2022:**

Cleaner:	
Less than 22 months of employment:	\$21.43
22 to 42 months of employment:	\$24.29
After 42 months of employment:	\$28.57
Handyperson:	\$31.20

**Effective January 1, 2023:**

Cleaner:	
Less than 22 months of employment:	\$22.05
22 to 42 months of employment:	\$24.99
After 42 months of employment:	\$29.40
Handyperson:	\$32.07

**Effective January 1, 2024:** The wage rates for each of the above classifications shall be increased effective January 1, 2024 in accordance with rates established by the New York City Comptroller's Prevailing Wage Schedule.

\*If there are any inconsistencies between the wage rates in this Appendix and those in the Prevailing Wage Schedule published by the New York City Comptroller, the Prevailing Wage Schedule controls.

The wage rates in this Appendix shall go into effect at the time the rates established under the 2020 Contractors Agreement between Local 32BJ and the Realty Advisory Board go into effect, and the successor agreement thereto, notwithstanding the effective dates set forth in the Prevailing Wage Schedule.

## Appendix B Anti-Discrimination Policy

### Anti-Discrimination Policy

NYC School Support Services, Inc. (“NYCSSS”) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of NYCSSS’ commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with NYCSSS. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

#### **Policy:**

1. NYCSSS policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with NYCSSS. In the remainder of this document, the term “employees” refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. NYCSSS will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of NYCSSS who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees<sup>2</sup> working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or the Human Resources Department. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

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<sup>1</sup> While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

<sup>2</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject NYCSSS to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. NYCSSS will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. NYCSSS will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. NYCSSS will provide all employees a complaint form (attached to this policy) for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Human Resources Department.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

### **What Is “Sexual Harassment”?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment;

or

- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

### **Examples of sexual harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material,

reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, name-calling.

### **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace.

Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

### **Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

### **Retaliation**

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;

- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful.

However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

### **Reporting Sexual Harassment**

**Preventing sexual harassment is everyone's responsibility.** NYCSSS cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or the Human Resources Department. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or the Human Resources Department.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

### **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Human Resources Department.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report



suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

### **Complaint and Investigation of Sexual Harassment**

*All* complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. NYCSSS will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Human Resources Department will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If the employee refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;

- A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
  - Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
  - Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

### **Legal Protections And External Remedies**

Sexual harassment is not only prohibited by NYCSSS but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at NYCSSS, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to NYCSSS does not extend your time to file with DHR or in

court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, FourthFloor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. §2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.