

ARTICLE II: MANAGEMENT RIGHTS

2.01 Hospital Rights

(a) All management rights, functions and responsibilities which are not specifically restricted or limited by a specific provision of this Agreement are retained and remain vested exclusively in the Hospital. The Hospital shall have the right and responsibility in its sole discretion to generally manage the Hospital to attain and maintain full operating efficiency and optimum patient care without regard to any past practice or condition. Without limiting in any way the generality of the foregoing but merely by way of illustration, the Hospital shall have the right to hire and determine qualifications for new employees; the right to determine staffing for any unit or department and the right to transfer employees from one department to another or one location to another (provided, however, (i) employees whose job duties do not regularly require them to work in different work locations, units or departments will normally not be transferred more than three (3) times in one shift and, if the Hospital consistently exceeds this limit, the Hospital and the Union will meet to discuss the issue; and (ii) no employee who is assigned to one geographic location/facility will be transferred between more than two (2) geographic locations more than once within one (1) shift); the right to schedule employees; the right to organize, reorganize, combine or discontinue units or departments, or to transfer or subcontract all or any portion of the work now or hereafter done by employees; the right to combine, modify, add to or abolish jobs and job classifications, including the right to modify job descriptions (provided the Hospital will first obtain the views of the Union thereon); **the right to move, combine, consolidate or close facilities and operations, in whole or part;** the right to move, combine, consolidate or close facilities or operations, in whole or part; and the right to promulgate rules and regulations applicable to employees. The Hospital shall also have the right to establish new jobs and assign pay grades thereto consistent with established pay grades and the right to create, modify, revise or issue new performance evaluation forms and/or similar documents used to rate employees performance; provided, however, that the Hospital will not establish new jobs and assign pay grades thereto or create, modify, revise, or issue new performance evaluation forms and/or similar documents without first obtaining the views of the Union.

(b) Limitations on Right to Transfer

Notwithstanding the Hospital's right to transfer employees among work locations/facilities, units and departments, an employee with thirty-five (35) or more years' seniority (as defined in Article 11.01 of this Agreement) will not be transferred unless the employee would not otherwise have a full day's work.

(c) Limitation on Grievances

The exercise by the Hospital of the rights reserved by this Article shall not be subject to the grievance and arbitration provisions of this Agreement except when the Hospital's action is contrary to a specific provision of the Agreement.

2.02 Subcontracting

The Hospital recognizes the Union's desire to perform all work covered under this Agreement and will make sincere efforts toward maintaining bargaining unit work. Without in any way restricting the Hospital's rights set forth in section 2.01, including the right to subcontract, or subjecting the exercise of any of those rights to the provisions of Article XII, when the Hospital contemplates or plans on using outside contractors to perform work traditionally performed by bargaining unit members, the Hospital shall notify the Union of these plans at least sixty (60) days prior to implementation of the subcontracting. Upon request, the Hospital shall meet with the appropriate Union representatives and provide a clear description of all the work that the Hospital is considering subcontracting, including its rationales for subcontracting the work. The Union will be given fifteen (15) days from the date on which the Hospital notified the Union of its plan to subcontract to propose alternatives for continued use of bargaining unit members. If the Hospital determines that it is unwilling to adopt any alternative(s) proposed by the Union, the Hospital retains the right to subcontract the work. The Hospital will, however, provide the Union with the reasons for its decision within ten (10) days of the date on which the Union proposed its alternatives.

ARTICLE III: DISCIPLINE**3.01 Disciplinary Action**

The Hospital shall have the right to discharge, suspend, or otherwise discipline any employee for just cause. All such discipline will be administered within fifteen (15) working days of the employer becoming aware of the conduct upon which the discipline is based. When the Hospital needs more time in order to complete a full and thorough investigation, it will so notify the Union; such extension will be subject to the Union's agreement, which will not be unreasonably withheld. If discipline was not administered within fifteen (15) working days of the employer becoming aware of the conduct upon which the discipline is based, or any longer extension period agreed-upon by the parties, the Hospital cannot base discipline upon such conduct except for gross misconduct, in which case discipline may be imposed if the delay was not unreasonable. The Hospital recognizes the right of an employee, at the employee's request, to have a Shop Steward present at any time when he is being questioned in connection with any investigation which may result in disciplinary action.

If an employee is disciplined or discharged he shall be given written notification of that fact at the time of imposition. In the event of the discharge of an employee, the Hospital shall also provide the employee with written notification of the reason therefore as soon as possible, but in any event within forty-eight (48) hours of the discharge; provided, however, the Hospital shall not be precluded from defending the discharge based on a reason other than the one(s) set forth in the termination letter, as long as the Hospital notifies the Union of the additional/new reason and provides the Union with relevant evidence relating thereto at least twenty (20) days prior to the scheduled date of the arbitration hearing. Terminated employees shall receive all outstanding pay within five (5) working days of receipt of their written notification of termination. The record of any offense not punished by termination which is contained in Hospital personnel files shall not be considered as active discipline beyond twenty-four (24) calendar months after the incident's occurrence. At the employee's written request, any offense not punished by termination which is contained in the personnel file shall be removed if older than twenty-four (24) calendar months after the incident's occurrence; provided, however, that materials removed from an employee's personnel file pursuant to this section may be introduced at any arbitration or other legal proceeding pursuant to this Agreement if the employee relies on his performance or record during the period prior to twenty-four (24) calendar months before the conduct at issue in the arbitration or other legal proceeding.

3.02 Progressive Discipline

The Hospital recognizes the principle of progressive discipline and will utilize it when appropriate; provided, however, this principle shall not restrict the Hospital, in its discretion, in determining the appropriate level and nature of discipline based on the facts of each case and the Hospital may start at any level of discipline, or may skip or repeat disciplinary steps, depending on the nature and circumstances of the conduct involved. In cases which do not constitute gross misconduct, such progressive discipline generally will include:

First offense: first written notice

Second offense: second written notice

Third offense: ~~suspension~~ **final written notice**

Fourth offense: termination

3.03 Right to Grieve

Any complaint by an employee or the Union relative to any disciplinary action shall be subject to the grievance procedure of Article XII. No first written notice shall be valid for more than twelve (12) months from the date of occurrence, and such first written notices shall be removed from the employee's file, unless followed by any subsequent discipline more serious than a first written notice within the twelve (12) month period.

3.04 Privacy of Discipline

The Hospital in imposing discipline will make every reasonable effort to do so in a manner that does not embarrass an employee.

3.05 Impact of Discipline on Transfer or Promotion

An employee who has active discipline shall not be eligible for a transfer or promotion for a period of twelve (12) months from the date of the discipline. If an employee with active discipline submitted a timely grievance challenging the discipline pursuant to Article XII and wants to apply for a transfer or promotion, the Hospital and the Union will expedite the processing of the grievance upon the Union's request.

3.06 Leave Abuse

(a) (i) Once an employee has not reported to work as scheduled four (4) times within the employee's twelve (12) month Attendance Period, the employee shall receive a first written notice; five (5) times within the employee's twelve (12) month Attendance Period, the employee shall receive a **final written notice**~~suspension~~; six (6) times within the employee's twelve (12) month Attendance Period, the employee may be terminated.

(ii) Once an employee has reported to work late (*i.e.*, not appropriately dressed and at the employee's work station within the recognized grace period of six (6) minutes) four (4) times within the employee's twelve (12) month Attendance Period, the employee shall receive a first written notice; five (5) times within the employee's twelve (12) month Attendance Period, the employee shall receive a **final written notice**~~suspension~~; six (6) times within the employee's twelve (12) month Attendance Period, the employee may be terminated.

(iii) If an employee reports to a scheduled shift but leaves prior to working one-half (1/2) of the employee's shift ("Early Departure") three (3) times within the employee's twelve (12) month Attendance Period, the employee shall receive a first written notice; four (4) times within the employee's twelve (12) month Attendance Period, the employee shall receive a **final written notice**~~suspension~~ and five (5) times within the employee's twelve (12) month Attendance Period, the employee may be terminated.

(iv) A No Call/No Show shall subject an employee to an immediate **final written notice with a** two (2) day suspension. A second No Call/No Show within the Employee's twelve (12) month Attendance Period shall subject the employee to immediate termination, even if the employee's first No Call/No Show prevented the Hospital from providing the employee with notice of the initial two (2) day suspension prior to the second No Call/No Show.

(v) Where an extraordinary event impacting at least three employees occurs which prevents the affected employees from reporting for work on time (*e.g.*, a shutdown of the subway, weather emergency or Hospital shuttle accident or breakdown), the Hospital in its discretion may determine that staff who as a result were late for their scheduled shift will not be considered tardy pursuant to (a) (ii) above. If the Union provides written notice of such an extraordinary event to the designated Hospital official within two (2) business days, this provision will apply. The Hospital's determination will apply to all the employees impacted by the event.

(b) Scheduled overtime shall be considered regularly scheduled time for purposes of determining if an employee has not reported to work as scheduled or reported to work late.

(c) The foregoing shall not restrict the Hospital, in its discretion, in determining the appropriate level and nature of discipline based on the facts of each case and the Hospital may start at any level of discipline, or may skip or repeat disciplinary steps, depending on the nature and circumstances of the conduct involved.

(d) Employees who leave before the end of their shift after their manager or supervisor has instructed them not to leave **or who leave without informing and obtaining the approval of their manager or supervisor** will be considered insubordinate and subject to immediate termination.

(e) Absence or an Early Departure due to statutorily protected leave, Bereavement Leave, Military Obligation, Jury Duty, and other circumstances including hospital confinement and work incurred injury or work incurred illness will not be recorded as leave abuse for purposes of corrective action.

(f) Consistent with Hospital policy, all terminations should be reviewed in advance by Human Resources. This review shall include a review of all the facts and circumstances of the particular employee's record.

3.07 Make-Up for Failures to Report to Work

An employee shall not be required to make up any day on which the employee failed to report to work as scheduled if the Hospital also counts such a failure to report to work toward discipline. If an employee is required to make up a day on which the employee failed to report to work as scheduled, the make-up day shall be scheduled to occur within thirty (30) days from the date of the employee's failure to report to work; provided, however, that an employee will not be required to make up a day on which the employee's failure to report to work was statutorily protected leave.