



**New York State Correctional Officers
& Police Benevolent Association, Inc.**

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



NYSCOPBA

STEWARD TRAINING

Winter 2017/2018

Introduction

Thank you

On behalf of the NYSCOPBA Executive Board, we would like to thank all of the men and women in the field who are working the front lines every day and make up the entire membership of NYSCOPBA.

Recognition

We would also like to recognize the hard work that our worksite stewards do on a daily basis. If not for these hard working individuals we would not be the Union we are today! These men and women often sacrifice their time to help out at the locals and your hard work and dedication does not go unnoticed.

Guide and Reference

This training manual is meant to be a guide and a resource for your training today and for you to use for future reference. It is not meant to cover every single situation or issue. Please remember that we do not expect you to know every piece of information contained in your training guides. This manual is for you to refer to regarding the subjects covered today and more. If you have any questions, the most important thing to do is ask for help!

Contact list

In this manual you will find a full contact list so that you may direct members to the appropriate contact to help with any issues that you may encounter. As always, please keep your Regional Vice President informed of any issues that you may have at your local worksites and facilities.

This training will be broken down into different segments and will be instructed by the NYSCOPBA Regional Vice-President, Grievance Department staff and the Attorneys of Lippes, Mathias, Wexler, Friedman LLP.

NYSCOPBA: Your Independent Union

NYSCOPBA is the New York Correctional Officers & Police Benevolent Association, Inc.

NYSCOPBA is the largest independent law enforcement and public safety union in New York State. We are 21,500 members strong in virtually every sector of law enforcement keeping New York safe. We are Capital Police Communications Specialists, Community Correctional Center Assistants, Campus Public Safety Officers, Safety & Security Officers, Correction Officers, Correction Sergeants, Forest Rangers, Security Officers, Security Screening Technicians, Motor Vehicle Investigators, Security Service Assistants, Warrant & Transfer Officers, Security Hospital Treatment Assistants, and State Police Communication Specialists.

NYSCOPBA represents over 21,500 New York State employees in the Security Services Unit. We have 42 titles in 17 agencies. Our Union was formed in 1998 and, since that time, have provided superior representation to the membership under the independent and democratic model. Our objectives are:

- to improve the terms and conditions of employment
- protect our members contractual rights
- provide high quality representation in the collective bargaining process
- communicate effectively with the membership
- achieve legislative gains
- promote the overall welfare of our members

In order to keep moving forward we must never forget our past.

NYSCOPBA was founded by Officers for Officers in 1998. Prior to this, the union was represented by Council 82, which members voted out due to the belief that representation at that time was more concerned about AFSCME and the \$1.8 million in dues it sent them, than the issues of the membership. After three decertification votes, on April 29, 1999 Council 82 was no longer the union representing our membership and NYSCOPBA was born.

On May 24, 1999 NYSCOPBA was certified as the bargaining unit for our members. Since then, NYSCOPBA continues to advocate every day on behalf of its members. All dues paying members have a share of the organization.

NYSCOPBA remains independent and never becomes a member of any organization that can or will dictate policy for NYSCOPBA.

In 2002 NYSCOPBA purchased the building at 102 Hackett Blvd in Albany where the central operations are currently located. This centralized office is available to the members. It is not only the union headquarters, it also serves as a meeting place for NYSCOPBA committee meetings.

The NYSCOPBA membership votes directly for their representatives at the local and statewide levels. All representatives are accountable to the members that they serve, providing superior representation at all levels.

NYSCOPBA also has a vast amount of programs that are available to its membership including:

Rainy Day Fund

Legal Defense Fund

Catastrophic Program

Charitable Donations

Scholarships

Sponsorships

Valor Awards

Retirement Awards

Information regarding each of these programs is available on the NYSCOPBA.org website, within this manual under the section titled “Sector Reimbursement Procedures”, through NYSCOPBA’s regional reps, or by calling (518) 427-1551.

Janus v. AFSCME

What is it? What does it mean?

The U.S. Supreme Court will likely consider the case of Janus v. American Federation of State, County and Municipal Employees in the fall of 2017.

The plaintiffs in the case charge that the “fair-share” fees collected by public-sector unions from workers who don’t become members are a violation of the dissenting workers’ First Amendment rights.

This challenges federal case law set nearly 40 years ago when in 1977 the Supreme Court unanimously ruled in *Abood v. the Detroit Board of Education* that although public school teachers cannot be required to join a union or to contribute to the union’s political expenditures, they can be required to pay their fair share of the costs that the union incurs in negotiating and administering an agreement on behalf of all teachers.

The Janus case and its dangers are substantively similar to the case of *Friedrichs v. California Teachers Association*, for which a lower court ruling in favor of the defendants only prevailed due to a vacancy on the Supreme Court.

The Janus plaintiffs have followed the same legal strategy as the *Friedrichs* plaintiffs.

Newly-confirmed Supreme Court Justice Neil Gorsuch is likely to side with the four justices who were willing to rule with the plaintiffs in *Friedrichs*.

A court decision in favor of the Janus plaintiffs could effectively prevent NYSCOPBA from collecting so-called “agency fees” from nonunion members represented by NYSCOPBA and would likely extend to all other public-sector unions as well.

This means that although public-sector unions would still be obligated to represent all members of their bargaining units, they would no longer be assured of receiving fees to compensate them for the costs of representing nonmembers, which could deeply undercut the unions’ financial viability.

The Janus case is driven by the same movement that has been working for at least two decades to undermine labor unions so as to reduce their influence on politics and public policy on behalf of correction officers, law enforcement and other working people.

An adverse decision on Janus has the potential to weaken union power and solidarity by dividing union members from nonmembers.

No one fights harder for your rights or provides you and your family the protection and benefits than NYSCOPBA:

- Rainy Day and Legal Defense Fund
- Attorney representation at agency interrogations, disciplinary arbitrations, interrogations by the State IG and Commission of Correction, contract arbitrations, Civil Service Law hearings and proceedings and more
- Protection against retaliation for exercising Taylor Law rights
- 24/7 attorney access for individual questions and concerns
- Life insurance benefits
- Scholarship benefits
- Retirement awards
- Grants/tuition reimbursement opportunities
- Retiree benefits including life, dental, and vision coverage

We are here to help you stay informed, stand together, and remain united!

NYSCOPBA will continue to fight for all of our members and ensure that the protections you have worked so hard to earn are never put in jeopardy.



New York State Correctional Officers
& Police Benevolent Association, Inc.

"Keeping New York Safe"



The NYSCOPBA Difference

Median Weekly Earnings for Full-Time Workers in 2016

*Source: US Bureau of Labor Statistics



Lippes Mathias Wexler Friedman LLP

Your Attorneys

We have been asked, as part of the sector training, to provide a section describing our firm. Lippes Mathias Wexler Friedman (“LMWF”) is a law firm of more than 70 attorneys with offices located in downtown Buffalo, Albany, New York and Jacksonville, Florida. While the firm represents a diverse clientele, LMWF’s greatest assets are its public sector labor and employment law, governmental relations and litigation practice areas. The attorneys of the Albany office spend almost all of their time working on NYSCOPBA matters. We are proud of the fact that many of our Albany office attorneys have been with NYSCOPBA since its certification as the bargaining agent for the Security Services Unit on May 24, 1999. Because of our 18 plus years of experience and historical knowledge, we are well aware of the issues and challenges facing your members. We take tremendous pride in providing aggressive representation and implementing a comprehensive team approach to the many difficult issues affecting your diversified unit and members.

Your attorneys at LMWF have been responsible for case law and landmark decisions which have impacted, literally, every public employee in the State of New York. Further, many of the victories won by our attorneys have been cited in courts across the country and have impacted employees, in both the public and private sector, in virtually every state in the nation.¹

Representing NYSCOPBA requires incredible flexibility and responsiveness. We are routinely required to appear at Departmental interrogations in Albany, Buffalo, Utica and Long Island City, sometimes with no advance notice. We understand that NYSCOPBA’s members work in agencies and institutions that operate 24 hours a day, 365 days a year and that when the need arises, NYSCOPBA’s Executive Board members, stewards and even members need and expect to be able to reach an attorney 24 hours a day, 7 days a week. We appreciate that it is essential to NYSCOPBA’s relationship with its members to be able to provide representation under such circumstances.

As more fully described in the steward training materials, we are intimately involved in contract enforcement, disciplinary representation and prosecuting Taylor Law violations. Additionally, we litigate matters on behalf of NYSCOPBA’s members and provide NYSCOPBA with corporate counsel related to matters involving corporate governance, internal organization and business affairs. We also assist members with retirement matters. We provide representation to members in disability retirement hearings and litigate denials of benefits when requested to do so by NYSCOPBA.

Another key component of our firm’s services is governmental relations representation. In this capacity, we act as legislative counsel and chief lobbyist. We work with NYSCOPBA’s

¹ For example, *Fountain v. NYS DOCS*, 2005 WL 1502146 (NDNY 2005), striking down, as a violation of the ADA, DOCS’ policy requiring employees to disclose their medical diagnosis after a brief absence from work.

Executive Board, Legislative/PAC Committee and Legislative Department to implement the Union's legislative agenda. This implementation requires that we perform many functions, such as drafting legislation and accompanying Sponsor's Memoranda, targeting legislative sponsors for bill introduction, sheparding bills through the legislative process, and working with the Governor's Office to obtain Chapters for those bills that have passed both houses, among other functions. The specific issues to be addressed legislatively that encompass the Union's agenda, however, come from NYSCOPBA, the Executive Board, the Executive Assembly and the general members of the Union.

LMWF is uniquely qualified to provide representation to NYSCOPBA and its approximately 21,000 members throughout the State of New York. The experience of our attorneys, the areas of law in which we practice, and our broad reach across New York State are all essential elements to providing the representation which NYSCOPBA and its members deserve and which they have come to expect. We are in close proximity to all three branches of New York State's government. We are within walking distance of New York State's Supreme Court, its Appellate Division, Third Department and the Court of Appeals, as well as the United States District Court for the Northern and Western Districts of New York. We are also within walking distance of the State's Capitol building, the Legislative Office Building and Executive Chamber.

Our dual New York locations also allow us easy and expeditious access to all of the areas where NYSCOPBA's members work and live. On any given day, it is not unusual for us to have an attorney representing a member in New York City, another representing a member in Watertown and a third providing representation in Buffalo.

Our attorneys meet regularly with representatives of the Governor's Office of Employee Relations and are within minutes of the Department of Corrections and Community Supervision's Central Office, the Central Office of the Office of Mental Health, the Office for People with Developmental Disabilities, the New York State Public Employment Relations Board, the Department of Civil Service, the Office of the Comptroller, the Office of the State Attorney General and the central offices of all of the other agencies employing NYSCOPBA's members. We are known and respected by the representatives of these agencies. As a result, we are able to quickly identify and interact with the appropriate agencies and officials to resolve issues and advance NYSCOPBA's interests.

While our firm's institutional knowledge, performance and history are well known to NYSCOPBA, it is worth noting that our firm is unique in its ability to state that we have proven ourselves to be able to provide NYSCOPBA and its members with the expertise, attention, focus and stability that is needed, expected and deserved. Furthermore, many of LMWF's attorneys focus solely on the firm's practice in representation of unions, their members and individual employees regarding labor and employment issues. LMWF has no current clients whose interests conflict with NYSCOPBA. We would not take on any client or representation that we might reasonably anticipate would conflict with the interests of NYSCOPBA.

We take tremendous pride in our representation of NYSCOPBA and look forward to continuing to do so in the future.

We hope these training materials are helpful and, if you have any questions, please feel free to call us.



**We are here to help you...
whatever your legal needs.**

Personal Injury Litigation

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**Discounted Legal Fees for NYSCOPBA Members and Families
To speak with an attorney, please call: 866.853.5104**



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AT THE SECTOR LEVEL

- Communication
- Sector Meetings
- Labor/ Management

AT THE SECTOR LEVEL

Communication

Here we will talk about what is expected at the local sectors and how to promote and communicate the most accurate and up-to-date information. The local sectors are one of the most important aspects in communicating accurate and timely information to individual members of the union.

Assistance getting answers to members

Nobody expects every steward to be able to answer every possible question or scenario. The key is to be able to call for help or send a member to the right contact for help. NYSCOPBA has a vast array of officials, support staff, and attorneys to be able to answer your questions or send you in the right direction. Most questions can be answered by your Chief Stewards, Business Agents, and Regional Vice Presidents. If, for any reason, you do not receive an answer, always tell the member that you will find out and get back to them. We will get you an answer or information to give a proper response. We have also enclosed a telephone list in your packet for contact numbers. Important numbers are also listed in the front section of the NYSCOPBA calendar books given to each member.

Website for information

The next important avenue for up-to-date communication is the NYSCOPBA website, www.nyscopba.org. Most information, such as forms, contract updates, Department Directives, Constitution, press releases, updates, etc. will be found on our web pages. The web site is updated daily and will likely answer your questions or quell rumors.

Utilize the Sector bulletin board

Lastly is the local bulletin board. Most updates and information are given to the Chief Sector Stewards by hard copy mail every other Friday or by email. Information is also given at the NYSCOPBA Executive Assembly meetings. This information should be shared with the membership, updated regularly, and placed on the sector's bulletin board for members to read. Even though NYSCOPBA's membership services send out email updates to members that have provided an address, any updates and new information should also be displayed on the local bulletin board.

AT THE SECTOR LEVEL

Sector Meetings

This section deals with an excerpt of NYSCOPBA's Constitution under Article XIII Section B – Sector Meetings.

“The primary purpose of sector meetings is to disseminate information to the membership, solicit input on issues affecting the members in that sector, and to resolve disputes that arise at the sector level. The Chief Sector Steward or his/her designee shall chair all such meetings.” A record of attendance shall be taken and all business conducted will be recorded as “minutes” of the meeting. A copy of these minutes shall be supplied to NYSCOPBA's headquarters office in Albany as a record and back up for monies encumbered for projects, donations, etc.

“It shall be the responsibility of the individual Sector Steward(s) to hold regular Association meetings for their membership. Such meetings are to be held no less than six (6) times per calendar year at times which will provide full opportunity for members to attend and provide input concerning sector and Association business. Failure of any Sector Steward to attend three (3) consecutive meetings of their respective sector, unless excused by the remaining stewards of said sector, is grounds for removal of that person as a Sector Steward.”

“Votes taken and decisions made at the sector meetings must be such that their impact does not affect other Association members in other sectors, and are not contrary to this Constitution and Bylaws, or rules, regulations, policies and/or existing collective bargaining agreement(s), and shall be deemed null and void if the decisions do not comply with these requirements.”

“At all sector meetings ten (10) percent of the sector membership will be required to constitute a quorum and shall be qualified to transact business brought before it.”

“In the event that a quorum does not exist at a sector meeting, the membership in attendance may conduct business, provided however, that all such business is nonbinding upon the sector membership until the following occurs:

1. A posting of the business transacted at the sector meeting shall be made at the sector and shall include:
 - a. A complete copy of all motions made at the meeting; and
 - b. The official tally for each motion.
2. Notice of the time, date and place of the next sector meeting shall be provided whose first order of business shall be the adoption of the previous meeting minutes.”

“If said minutes are adopted by a majority vote of those in attendance, those matters so decided at the previous meeting shall be binding upon the body, provided however, that they comply with Association policies, procedures, and any applicable collective bargaining agreements, the Constitution and Bylaws and applicable law.”

When the Chief Sector Steward, or their designee, chairs sector meetings the rules contained in the current edition of Robert’s Rules of Order, Newly Revised, shall be the parliamentary authority of the Association in all cases to which they are applicable and in which they are not inconsistent with the Constitution and Bylaws.

The following will be the format for all Association meetings;

1. Meeting called to order
2. Pledge of Allegiance
3. Roll call of officers
4. Reading of minutes of previous meeting(s)
5. Reading of correspondence
6. Reports of Officers
7. Report(s) of Committees
8. Unfinished business, (old business)
9. New business which shall be submitted in writing and signed by the maker
10. Adjournment

When the meeting is finished the minutes and any motions (if any) should be safe guarded and handled as outlined in the Sector Reporting Policy and Procedure.

AT THE SECTOR LEVEL

Labor/ Management

This section, Labor/ Management, deals with Article 25 of the Security Services Agreement, or contract. Starting with page 101 of the current contract, it details all language dealing with Article 25.

We will concentrate on an overview of the concept of Labor/ Management relations, starting with the local level. Each local may have different committees set up with management. Your Regional Vice President can help facilitate which committees may be appropriate for your work place. What we are discussing in this training will be the local Labor/ Management meetings dealing with issues at your work place or facility. Specifically, these are meetings that deal with your work sites' executive team or management and local union stewards.

First, either management or the union may ask for a labor/ management meeting, though typically it is requested by the labor side. An agenda should be submitted by the requesting party a week in advance and list the topics of discussion. A meeting date should be scheduled soon after the written request is submitted. Relief time should be permitted to the stewards who are attending the meeting. It should also be noted that, at the labor/ management meeting, all parties are treated as equal and without rank. Stewards and management (or their representative) should be equal during this meeting, with the meeting and discussion conducted in good faith.

After the meeting has taken place, minutes from the meeting should be generated. If management has taken minutes and asks for approval, please make sure the minutes are an accurate reflection of the meeting before signing agreement.

The Regional Vice President will give examples of a Memorandum of Understanding (MOU) and a successful labor/ management agreement.



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Rights and Obligations Under the Taylor Law That You Need to Know as a Corrections and Law Enforcement Officer

A Strike is- Any unauthorized change that you make in your normal daily job routine that stops, slows down or postpones the normal job accomplishment of your assignment – even if you follow exactly what your job description, department policy or directive indicates (work to rule).

Possible Penalties for Individual Members

“Two-for-one” Payroll deduction – For every day you are determined to be performing a strike related action, you will be docked 2 days of pay.

Disciplinary Sanctions - Above and beyond payroll deduction, an employee can receive additional discipline, including fine, suspension or termination.

Possible Penalties for NYSCOPBA

The Taylor Law prohibits any representing employee organization, including NYSCOPBA, from “engaging in, causing, instigating, encouraging or condoning a strike.”

Loss of Triborough Rights - Under the Taylor Law, Triborough rights allow the provisions of the Collective Bargaining Agreement (contract) to remain in effect until a successor agreement is negotiated, even after the expiration of an agreement. If it is determined that NYSCOPBA, as the representing employee organization, is responsible for a “strike action”, the Triborough rights are forfeited. Members would lose the right to benefits that continue after the contract expires.

Loss of “Dues Check-off” - “Dues check-off” allows NYSCOPBA members to use payroll deductions for NYSCOPBA insurances and other benefit programs. If it is determined that NYSCOPBA is responsible for a “strike action”, the “Dues-check-off” rights would be forfeited. In addition, because NYSCOPBA receives members’ dues directly through payroll deduction, the loss of dues check-off could impair proper membership tracking and may result in representation and benefit interruptions.

NYSCOPBA Statement:

Let it be clearly stated that NYSCOPBA does not and will not: engage in, cause, instigate, encourage or condone any action that could in any way be considered a “strike” action.



Lippes Mathias Wexler Friedman LLP

Attorneys at Law

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M E M O R A N D U M

TO: NYSCOPBA Executive Board

FROM: Lippes Mathias Wexler & Friedman LLP

DATE: April 21, 2017

SUBJECT: The Taylor Law Prohibition Against Strikes

This memorandum discusses the current law in New York regarding strikes and work stoppages in the public sector. We first address the definition of a “strike” and then describe the procedures that come into play when employees or employee organizations are alleged to have participated in a strike.

What is a strike?

Civil Service Law § 210 states: “[n]o public employee or employee organization shall engage in a strike, and no public employee or employee organization shall cause, instigate, encourage, or condone a strike.” The question that naturally stems from this prohibition against striking is what exactly constitutes a strike?

A strike includes “any strike or other concerted stoppage of work or slowdown.” *Civil Service Law* § 201(9). Furthermore, *Civil Service Law* § 210(2)(b) establishes that employees are presumed to have engaged in a strike (on the date or dates when the strike occurs) if they 1) are absent from work without permission, or 2) abstain wholly or in part from the full performance of their duties in the normal manner without permission. Simply put, the prohibition of strikes extends to partial work stoppages or to any diminution in the services normally rendered.

The question that remains is this: can an employee simply perform only the duties that are required pursuant to his or her job description? This is often called “work-to-rule,” whereby employees choose to perform only the duties that are expressly established, and nothing more. Furthermore, a slowdown, may be one where employees perform the duties as outlined, but they are being performed in a manner different to the normal manner. *Civil Service Law* dictates a strike as one where employees stop working, or when there is a concerted stoppage of work or slowdown.

As examples, teachers who refuse to participate in faculty meetings, field trips, parent teacher conferences, or any activity not expressly provided for by a labor agreement, have been found to have engaged in unlawful strikes. See, *Webutuck Teachers Ass'n*, 13 PERB ¶ 3041 (1980) (refusal to attend faculty meetings held to be unlawful strike); *Bellmore-Merrick Central High Sch. Dist. v. Bellmore-Merrick United Secondary Teachers, Inc.*, 85 Misc.2d 282 (Sup. Ct. Nassau Co. 1975) (refusal to attend “back to school night” held to be unlawful strike), *Churchville-Chili Educ. Ass'n*, 18 PERB 4529 (1985). Furthermore, failure to engage in even voluntary services has been held to be an unlawful strike if a practice of performing these services has been established. *West Genesee Central Sch. Dist.*, 38 PERB ¶ 4506 (2005), citing *Pearl River Union Free Sch. Dist.*, 11 PERB 4530, *aff'd*, 11 PERB 3085; see also, *Local 826, Council 66, AFSCME, AFL-CIO*, 12 PERB 3003 (1979) (employees who worked for city sanitation were held to be in violation of strike provisions when they refused temporary job assignments and voluntary overtime). A work stoppage initiated to protest or react to an employer’s improper practice is also unlawful. *Farmingdale Union Free School District*, 11 PERB 3055 (1978).

Most notable with respect to allegations of a slowdown based on a change in how employees normally perform their duties, even when there is a law or policy at issue, is the case in *Local 252, Transport Workers Union of America, AFL-CIO v. NYS Public Employment Relations Board*, 58 N.Y.2d 354 (1983), where the Court of Appeals upheld PERB’s determination that bus drivers had engaged in a strike based on a change in how they performed their duties. The bus drivers in this case inspected their busses before the run instead of after, as had been their usual practice, which resulted in finding equipment violations and led to bus runs not being operated. *Id.* The employees were relying on the *Vehicle and Traffic Law* in making this change – specifically to ensure they were driving busses that were not in violation of the *Vehicle and Traffic Law*. The Board, in its initial decision held, “public employees’ abnormal and overly meticulous adherence to the law and rules which has the effect of interfering with the performance of the employer’s mission and which is designed to extract bargaining concessions” can be a strike under the *Taylor Law*. In affirming PERB’s determination, the Court of Appeals held that, notwithstanding the fact that performing their jobs in the normal manner (i.e. inspecting the busses after their runs) would have entailed the operation of busses in violation of the *Vehicle and Traffic Law*, the concerted refusal to perform normally was an illegal strike. *Id.* In *Matter of Acosta v. Wollett*, 55 N.Y.2d 761, the Court of Appeals upheld a determination that a strike had occurred when employees refused to work in a temporary location which had no certificate of occupancy and had hazardous conditions (unheated, deficient electricity).

The Court even went on to discuss the legal question of the impact of the State Law (*VTL*) and the changes made by the employees. The employees and the union had raised, how can they be found to be engaged in a strike when what they were doing (which was a change in normal practice) was done in order to be in compliance with the *Vehicle and Traffic Law*? The Court reviewed the definition of a strike, (“any strike or other concerted stoppage of work or slowdown by public employees”) and determined that the language, literally read, did not contain any exceptions for which

the union could claim the change is justified – even if justified by law or other legitimate motivating reason. *Id.* In conclusion, the Court held:

We do not hold that concerted refusal to engage in conduct which would entail violation of law, if taken for the purpose of enforcing job-related demands, may always be determined to constitute a strike within the contemplation of the Taylor Law. We do hold that where, as here, the reliance on a sudden concern for overly meticulous and abnormal observance of statutory commands is purely a subterfuge, the incidental circumstance that continued performance of duties in the normal manner might entail violations of statute does not legally preclude a finding that there has been a strike. *Id.*

Based on the current case law, if an officer were to engage in “work-to-rule” or a “slowdown” by performing their duties in a manner which is different than how they are normally performed, he or she could be found to be engaged in an unlawful strike.¹ Under current case law, this is even true if the employees are performing their duties in a manner which may be established by a law or a policy. It is clear that the existing case law focuses heavily on the “concerted” nature and the change from the normal manner of performing duties, than any justification given by the employees, such as following a policy or law.

Individual Employees—possible penalties and procedural protections

“Two-for-one” payroll deduction penalty

In the event that it appears that a violation of the subsection prohibiting strikes has occurred, the chief executive officer of the government involved shall investigate and make a determination. *Civil Service Law* § 210(2)(d). Following such a determination, the chief executive officer shall notify the chief financial officer of his determination, as well as send notice to each employee determined to be involved by personal service or certified mail. The chief financial officer is to make a payroll deduction against each employee determined by the chief executive officer to be in violation of the prohibition against strikes. Such a payroll deduction is often called the “two for one” penalty (i.e., an amount equal to twice an employees daily rate of pay for each day or part thereof that it was determined that the employee violated the prohibition against strikes).

“Two-for-one” payroll deduction penalty procedures

Employees who have been determined to be in violation of the prohibition of strikes have the opportunity to object (within 20 days of receipt of the notice discussed above) by filing a sworn affidavit with supplemental documentary evidence with the chief

¹ It should also be noted that correctional officers may have an additional concern should they choose to engage in “work-to-rule” activity or “slowdown activity.” As a paramilitary organization, the Department of Correctional Services functions with a chain of command. Therefore, an officer could be performing only the duties required under his or her job description, but then be ordered to perform another duty by a supervisor. Not only could such activity subject the officer to violations for concerted strike activity, but disobeying the order of the supervisor could also be considered insubordination and subject the officer to discipline.

executive officer. *Civil Service Law* § 210(2)(g). If the chief executive officer determines that the evidence establishes that the employee did not violate the subdivision, he shall sustain the objection. If the chief executive officer determines that the evidence fails to establish that the employee did not violate the subdivision, he shall dismiss the objection. If the chief executive officer determines that the evidence presented raises a question of fact, a hearing officer is appointed and the employee is provided a hearing and a determination is made by the hearing officer. The employee bears the burden of proof at the hearing. If it is ultimately determined (by the chief executive officer or a hearing officer) that the employee did not violate the subsection, payroll deductions shall cease and the employee is refunded any deductions previously made. All determinations are reviewable through an Article 78 proceeding.

Civil Service Law § 210(2)(g) provides employees with an opportunity to object to the chief executive officer's determination that he or she engaged in a strike in violation of the subsection and the imposition of the "two for one" payroll deduction penalty. It appears from the language of the statute, that *each* individual employee determined to be involved in the strike, has his or her own right to file an objection (with appropriate sworn affidavit and documentary evidence) and his or her own hearing (if a hearing is determined to be necessary because of a factual dispute). There are no cases directly discussing this issue, but the language of the relevant subsection suggests that each individual has such protections. Specifically, the statute speaks of "any employee's" right to object, and provides for the employee to submit his or her own sworn affidavit. Furthermore, the statute continues to state "the employee" throughout, indicating, that the determinations (by both the chief executive officer and a hearing officer) should be made individually regarding "the employee," meaning one, singular employee at a time.

Discipline

Besides the penalty of a "two for one" payroll deduction for any employee determined to have violated the prohibition of strikes, individual employees can also be disciplined for a strike violation. Specifically, Section 210(2)(a) states, "any employee who violates subdivision one of this section may be subject to removal or other disciplinary action provided by law for misconduct." Disciplinary charges against an employee must be brought within existing statutory or contractual provisions for employee discipline.² Therefore, in the case of a NYSCOPBA member, the provisions of Article 8 must be followed in order for the agency to discipline an employee for violation of the prohibition of strikes.

² As discussed in further detail in this section, a penalty against an employee organization for condoning, instigating, causing, or encouraging a strike can also be the loss of *Triborough* rights. *Triborough* rights provide that the terms of an expired contract continue until a successive contract is reached. If an employee organization loses *Triborough* rights due to involvement in a strike, and the current contract is expired, then negotiated disciplinary procedures in a contract are no longer valid, and the only protections will be those provided by statute. For instance, if NYSCOPBA were to lose *Triborough* rights because of involvement in a strike, then the negotiated disciplinary provisions of Article 8, which substitute the statutory provisions of *Civil Service Law* §75, would no longer apply if there is no current contract, and only the protections of *Civil Service Law* § 75 would exist if an agency wished to discipline an employee.

Employee Organizations—possible penalties and procedural protections

As discussed above, individual employees can be penalized in two ways (payroll deduction and discipline) for violating the prohibition of strikes. Furthermore, employee organizations can also be penalized for its involvement in a strike.

A chief executive officer who determines that a strike has occurred is obligated to report that strike to PERB.³ The employer or PERB's counsel can file a charge that the employee organization engaged in a strike. If it is found that the organization engaged in, caused, instigated, encouraged, or condoned the strike, the employee organization may be penalized by suspension of the organization's dues deductions and loss of the employee organization's *Triborough* rights.

Possible Penalties

a. Loss of *Triborough* rights

The doctrine provided by *Triborough* rights, originally established by PERB case law, and now codified in the *Taylor Law*, mandates that the terms of an expired contract continue until a successive agreement is reached. This doctrine is viewed as a way to compensate unions for the loss of the right to strike. The statutory language states it is an improper practice for a public employers "to refuse to continue all the terms of an expired agreement until a new agreement is negotiated, unless the employee organization which is a party to such agreement has, during such negotiations or prior to such resolution of such negotiations, engaged in conduct violative of subdivision one of section two hundred ten of this article." *Civil Service Law* 209-a(1)(e).

Generally, when there is an expired collective bargaining agreement, the employer must continue with the terms of the prior agreement and failure to do so is an Improper Practice. If an employer chose not to continue the terms of an expired contract, he employer, in an Improper Practice charge, would have a defense that they did not have to continue the terms based upon an employee organization strike. This penalty of losing *Triborough* rights is imposed by the public employer, not by PERB or a Court.

Since NYSCOPBA's contract is currently expired, the loss of *Triborough* rights could be catastrophic. It would mean that the current, expired contract, would not have to be followed by the employer. This would cause a loss of many significant rights and benefits outlined in the collective bargaining agreement.

b. Forfeiture of dues checkoff

³ Pursuant to *Civil Service Law* § 210(4), the chief executive officer is also required to make a public report regarding the strike. This report includes, 1) the circumstances surrounding the strike, 2) the efforts used to terminate the strike, 3) the names of the public employees deemed to be responsible and the varying degrees of responsibility, and 4) the sanctions imposed and proceedings pending regarding those responsible.

The Board can institute a forfeiture of dues checkoff and agency fees for violations of the strike provisions. In fact, if PERB finds that the employee organization has violated the strike provisions, PERB must institute due forfeiture. The only question that remains is the duration of the dues forfeiture.

The determining the duration of the dues forfeiture, PERB shall consider the following facts in making its determination: 1) the extent of willful defiance of subdivision one (prohibition of strikes), 2) the impact of the strike on public health, safety, and welfare of the community, and 3) the financial resources of the employee organization. The Board may also consider 1) the refusal of the organization or employer to submit to fact finding or mediation, and 2) whether, if so raised by the employee organization, the employer engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike.

The factor of extreme provocation is an affirmative defense. If the Board finds extreme provocation, it often states that it would have ordered a particular penalty, but because of the extreme provocation by the employer, a lesser penalty is imposed.

Each case is judged on a case-by-case basis; therefore it is difficult to make generalizations about the penalty PERB will impose in any particular case. It is important to note that unions representing employees in prisons, psychiatric facilities, and detention facilities have been punished severely because of the imminent and substantial danger that the absence posed. As an example, a 17-day statewide strike by correctional officers where the union did not instigate or cause the strike, but did condone and encourage the strike, led to the imposition of dues forfeiture for eighteen (18) months. *N.Y. State Inspection, Sec. & Law Enforcement Employees, Dist. Council 82, AFSCME, AFL-CIO*, 14 PERB 3069 (1981).

The union representing Transit Authority employees lost its dues checkoff privilege based on its role in a three-day transit strike in New York City in December of 2005. *New York City Transit Authority v. Transportation Workers Union of America*, 2006 N.Y. Misc. LEXIS 4046, affirmed in part, 37 A.D.3d 679, motion denied 18 Misc. 2d 414, modified 2008 N.Y. App. Div LEXIS 7698.

Procedures to implement forfeiture of dues checkoff

Either the public employer or PERB's counsel can file a charge against an employee organization by serving written notice with a copy of the charges. The employee organization has eight (8) days to serve a written answer. A hearing is to be held before the PERB Board "promptly." In determining whether the employee organization violated the subdivision, the board shall consider 1) whether the employee organization called the strike or tried to prevent it, and 2) whether the employee organization made or was making good faith efforts to terminate the strike. *Civil Service Law* § 210(2)(e).

These decisions are reviewable through the courts, but the courts review is limited. The court will not disturb PERB's finding so long as there is "substantial evidence" in the record to support it.

Civil Service Law § 211 procedures for injunctions and findings of criminal contempt

Civil Service Law § 211 states that the chief executive officer must notify the chief legal officer when it appears that employees or an employee organization has threatened to strike or is committing a strike and the chief legal officer must apply to the supreme court for an injunction against such violation. The chief legal officer applies for the injunction by order to show cause, naming the parties involved and providing the facts evidencing the threat of the strike or the current strike. Once the papers are served, counsel for the parties named (employees, employee organization, etc) must appear and show cause why the preliminary injunction restraining the conduct should or should not be issued by the court. The parties named may raise questions of fact that require a trial and the court will make a determination as to whether the temporary restraining order should continue pending the trial.

Courts have resolved many procedural problems regarding petitions for injunctions. Specifically, in *Orchard Park Central School District v. Orchard Park Teachers Association*, 50 A.D.2d 462, *appeal dismissed*, 38 N.Y.2d 911, the court held that the names of each and every striking employee need not be named in the petition if the names are unknown or the number of employees is too numerous to enjoin them all. The court also held that the temporary restraining order is effective against anyone with actual knowledge of it and that personal service of the restraining order was not necessary to bind anyone to the directive of the restraining order.

Employees or employee organizations may be punished for criminal contempt for willfully disobeying an injunction restraining a violation of the strike prohibition. If it is found by a court "beyond a reasonable doubt"⁴ that an employee or employee organization violated the court order and disobeyed the injunction (criminal contempt), the court can impose a fine or jail time.

In assessing penalties to be imposed for contempt, the courts look at the same factors as PERB does in assessing dues forfeiture penalties. In contempt proceedings, the affirmative defense of extreme provocation by the employer does mitigate penalty, but it is not a defense to granting the injunction or a determination of guilt in a contempt proceeding itself. Employees and employee organizations can be penalized for strike activity through both the procedures in Section 210 ("two-for-one" penalty for individuals and dues deductions for employee organizations) and Section 211 (criminal contempt).

Under what circumstances is an employee organization held to be involved in the strike?

The question that remains is when is an employee organization held liable for a strike and not simply the employees who participated? The law prohibits an employee

⁴ Contempt determinations are usually made through a proceeding before the court, however, summary punishment can occur if contempt is committed in the presence of the court, such as an employee refusing to obey a directive of the court to return to work.

organization from “engaging in, causing, instigating, encouraging, or condoning a strike.” The law in this area is a function of case law and therefore is not black and white.

In determining whether an employee organization has violated subdivision one of this section, the board shall consider (i) whether the employee organization called the strike or tried to prevent it, and (ii) whether the employee organization made or was making good faith efforts to terminate the strike. *Civil Service Law* § 210(g)(3)(e). Circumstantial evidence (such as timing) can provide a rational basis for a determination that an employee organization condoned a strike. *Eagan v. Newman*, 92 A.D.2d 1007 (3d Dept. 1983).

What is clear is that PERB will not penalize an employee organization if its members stage a “wild-cat” strike. *Buffalo Teachers Federation, Inc. v. Helsby*, 515 F.Supp. 215 (1981), *aff’d* 676 F.2d 28. Furthermore, a union cannot be presumed complicit in a strike based *only* on a showing that a significant number of members engaged in the strike. *Matter of Police Benevolent Ass’n of the City of Yonkers, Inc. v. NYS PERB*, 51 N.Y.2d 779 (1980).

a. Case Law Examples

In *Eagan v. Newman*, the Appellate Division, Third Department held that PERB’s determination finding that the employee organization condoned the strike, in violation of Section 210, was substantially supported by the evidence. 92 A.D.2d 1007 (1983)(hereinafter “*Egan*”). In *Egan*, PERB found that the union had not called for or instigated the strike, but once it started, the union did encourage and condone the strike. *Id.* The court held that although there was no direct evidence that the union condoned or encouraged the strike, there was circumstantial evidence which was enough to find a violation against the union. The circumstantial evidence included the fact that every officer, agent, and representative of the union did individually participate in the strike and was found to have engaged in strike activity and none of these individuals sought administrative review of this determination. *Id.* at 1007. The court was not persuaded by the fact that the union president requested that the strikers return to work. The court stated that such a request was “pro forma” and intended to simply obscure the union involvement. *Id.* The court held “given the facts that the president remained silent when he first learned of the strike plans, that his request came well after the strike had begun, that he himself did not order the strikers back to work, that he neither threatened nor took any internal disciplinary action against the striking employees, and that he was found to have engaged in the strike, there was ample support in the record for PERB’s findings.” *Id.*

In *CSEA v. Helsby*, the court determined that there was not enough evidence against CSEA to support a finding that it violated the provision against striking where there was no evidence that the CSEA initiated or condoned the absenteeism, and disciplinary proceedings against the employees for allegedly striking were all found in the employees’ favor. *CSEA v. Helsby*, 33 A.D.2d 339 (3d Dept. 1970).

In *Amalgamated Transit Union, Division 1342 v. Newman*, the Appellate Division, Fourth Department, held that PERB's determination that the union condoned a strike and therefore was in violation of subsection 210 was not substantially supported by the record. 78 A.D.2d 105 (4th Dept. 1980). The record revealed that the union had not instigated or caused the strike, and in fact, the record showed that the union officials tried to prevent the strike, and later tried to end the strike and did not themselves participate in the strike. *Id.* In PERB's decision, the Board held that the union condoned the strike because in PERB's judgment the union could have done more to prevent the strike. The court held that PERB's decision was not supported by the evidence and furthermore noted, "[t]he danger inherent in its [PERB's] decision on these facts is that a union, despite best efforts of its leadership, may be held guilty of a violation of section 210 of the Civil Service Law whenever a wildcat strike occurs." *Id.* at 111.

As always, please feel free to contact our office with any questions.



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INTERROGATIONS

1. Employees' Obligation to Answer Questions

- 1.1 Generally, the employer can require employees to answer questions specifically and directly related to their duties or to their fitness for duty. This may include questions regarding off-duty conduct.

2. Right to Union Representation

- 2.1 The contractual Bill of Rights, Section G, guarantees the right to union representation to employees who are likely subjects of discipline. (Employees who are only witnesses do not have a right to representation.)
- 2.2 The Weingarten legislation (Chapter 244 of the Laws of 2007) amended the Taylor Law (*Civil Service Law (CSL)* §209-a.1(g)) to provide public employees in New York with a right to representation broader than that contained in the Bill of Rights.
- 2.3 Questioning: - whenever an employee is likely to be served a Notice of Discipline or if it reasonably appears an employee may be the subject of a potential disciplinary action, an employee is entitled to representation.
- 2.4 In situations where it is difficult to determine whether an employee is entitled to representation, assert the right to representation! The denial of representation can be grieved. Furthermore, the denial of representation in certain circumstances not covered by the Bill of Rights may be a violation of the Taylor Law, challenged by an Improper Practice Charge. In each instance, the employee must actually request union representation.

If an employee requests representation and is denied, the employee will still be required to answer the questions (as they are "ordered"). The request for the union representation should be clear on the record. A denial situation may occur if the agency indicates that the employee is "a witness." In these cases, make the request, and continue. Then, after the interview, if the member feels like the questioning was such that they had reason to believe they may be subject to disciplinary action, they should immediately draft a memo, to be provided to the union only (not employer) outlining all relevant facts (date, time, people, request, denial, details of the questioning). This memo can be forwarded to our offices for review for potential action.

- 2.5 Statements made by an employee without union representation, who is entitled to representation, may not be used against that employee in a subsequent disciplinary proceeding (Bill of Rights, Section H).
- 2.6 Before being questioned by the Agency's Inspector General's office (each Agency uses a different name for the office), members have the right to be informed of the nature of the investigation. (Bill of Rights, Section K).
- 2.7 Employees must be notified at least 24 hours before the questions (when the nature of the investigation permits). Members who were notified of an investigation pending against them by their Inspector General's Office will now be notified, within two weeks, of the closure of the investigation. (It will no longer be necessary to make a written request to be notified). (Bill of Rights, Section L).

3. Probationary Employees

- 3.1 Pursuant to the CSL §209-a.1(g), all bargaining unit employees, including probationers, have a right to ask for representation when being questioned if it reasonably appears that the employee may be subject to potential disciplinary action.
- 3.2 Asserting a contractual right to representation for probationers is problematic because probationers do not have a right to a hearing before being disciplined or terminated. (See, Bill of Rights, Section G).
- 3.3 When in doubt – always have the employee ask for union representation.

4. Self-Incrimination and Use Immunity

- 4.1 When employees are compelled, under threat of discipline, to answer questions related to their employment, they receive use immunity under principles enunciated by the U.S. Supreme Court in *Garrity v. New Jersey*, 385 U.S. 493 (1967).
- 4.2 Use immunity means that a compelled statement cannot be used against an employee in a subsequent criminal proceeding.
- 4.3 A compelled statement may be, and customarily is, used against an employee in a subsequent disciplinary proceeding.
- 4.4 An employee who receives use immunity may not refuse to answer questions based on the Fifth Amendment right against self-incrimination. Refusal to answer may result in discipline, including termination from employment.
- 4.5 Procedure to ensure employee receives use immunity.

- (a) The steward should ask if the employee must answer under threat of discipline or termination.
- (b) If the answer is yes, use immunity automatically attaches.

- 4.6 The employer does not have to tell the employee about use immunity.
- 4.7 The employer cannot require the employee to waive use immunity.
- 4.8 DOCCS Directive 0102 (attached) applies to interrogations by DOCCS.

5. **The Meaning of “Representation” in the Context of an Interrogation**

- 5.1 There is no contractual definition.
- 5.2 A reasonable interpretation includes the right of the member to be properly advised during the course of the interrogation. You should meet with the employee beforehand. Ask for clarification of confusing questions. Object to irrelevant questions. Make sure the employee has a time to break or caucus if he needs it.

6. **Outside Police Agreement**

- 6.1 As provided in a “side letter” to the collective bargaining agreement (attached), members have no obligation to cooperate with, or give a statement to, an outside police agency (FBI, State Police, Sheriff, local police, etc.) or an outside investigative agency. This provision, however, does not apply to commissions or bodies charged by the Mental Hygiene Law with the duty to conduct investigations.

7. **The Justice Center**

- 7.1 The Justice Center was created pursuant to legislation in June of 2012 with the purpose of protecting vulnerable persons. The Justice center has the primary responsibility for tracking, investigating and pursuing serious abuse and neglect complaints for facilities and provider agencies that are operated, certified or licensed by the following six agencies: Department of Health, Office of Mental Health, Office of People with Developmental Disabilities, Office of Children and Family Services, Office of Alcoholism and Substance Abuse Services and the State Education Department.
- 7.2 With respect to union representation in these matters, a member employed by one of the agencies listed above has the same right to union representation as they would if the employer was questioning them. Keep in mind, as discussed above, this may not mean a right to union representation in every instance, but a member should always make the request.

- 7.3 The Justice Center also employs a Special Prosecutor and has a law enforcement branch which has concurrent jurisdiction with district attorneys to prosecute abuse and neglect crimes. With respect to any questioning by this branch of the Justice Center, the provisions of the Outside Police Agreement will apply. This is why it is important at the start of any questioning to establish whether you are compelled, as a condition of employment, to answer the Investigator's questions. If yes, then the Justice Center is acting as your employer, and you must answer the questions (and need to request a union representative). If the answer is no, then the Outside Police Agreement applies, and you cannot be compelled to answer the Investigator's questions.
- 7.4 The Justice Center as it relates to DOCCS: The Justice Center does have authority to visit and investigate DOCCS SHU and OMH Satellite units for the purpose of making "programmatic recommendations" (this is a function they inherited when they replaced the Commission on the Quality of Care). In that context, they may interact with DOCCS employees, and have authority to question DOCCS employees in that capacity. These investigations, however, cannot result in DOCCS employees being disciplined by the Justice Center.

The Outside Police Agreement expressly excludes the Commission on the Quality of Care and now the Justice Center (as "Commissions or bodies charged by Mental Hygiene Law with the duty to conduct investigations."), therefore members at DOCCS still have to speak to Justice Center investigators (even though the Justice Center does not have authority to "discipline" a member employed by DOCCS). Because we believe the Justice Center reports will be given to DOCCS, we recommend that any member required to answer questions from a Justice Center investigator: 1) seek confirmation from DOCCS that he or she is required to answer questions under threat of discipline; and 2) request union representation from DOCCS and the Justice Center investigators.

8. Questioning of Members by Outside Investigative Agencies other than the Justice Center

- 8.1 Some outside agencies have subpoena authority and can compel members to testify. If subpoenaed, the member must cooperate but has a right to counsel.
- 8.2 The State Inspector General, however, may require any officer or employee in a covered agency to answer questions concerning any matter related to the performance of his or her official duties even without a subpoena. The statutory authority which allows the State Inspector General to compel employees to answer questions includes certain use immunities. The State Inspector General generally

provides notice, frequently coordinating with our office, and legal representation is permitted.

- 8.3 The New York State Commission of Corrections can speak to members during the course of an investigation based upon statutory authority allowing: a) issuance of a subpoena, or b) broad authority to obtain information.

The statute provides that the Commission may “require from the officers or employees of a correctional facility any information deemed necessary for carrying out the Commission’s functions, powers and duties.” *Corrections Law §46(1)*. As such, ultimately the Commission will be able to speak to members. Generally, the Commission does provide notice prior to questioning and has frequently worked through our office to schedule the interviews and has allowed union representation and/or an attorney.

- 8.4 Based upon specific statutory authorities, both the Commission of Corrections and the New York State Inspector General’s Office will be able to compel members to speak to them. If a member is contacted by either of these agencies, they should notify NYSCOPBA and/or our office immediately to discuss.

9. Investigations Regarding Workplace Discrimination

- 9.1 Members are entitled to representation during questioning by the Department of Corrections and Community Supervision “Diversity Management” investigations.

- 9.2 A union can be placed in a difficult position when one member accuses another member or members of engaging in workplace discrimination. It is NYSCOPBA’s policy to oppose workplace discrimination, but it is also NYSCOPBA’s policy and duty to provide its members with representation when they are accused of misconduct. Accordingly, stewards have asked a number of questions as to how to deal with these situations when they arise in the field.

What follows is a brief discussion regarding representational rights, which are discussed in greater detail elsewhere in this manual, and the answers to some frequently asked questions regarding representational rights in investigations regarding workplace discrimination.

9.3 Representational Rights in General

Many members are aware that members have the right to union representation during questioning, where that questioning may lead to discipline. Depending on the situation, that right, as discussed elsewhere in these materials, is derived from the contractual Bill of Rights, the Weingarten amendment to the Taylor law, or both.

Many members are also aware that their employing agency cannot require members to answer questions from an outside investigative agency. Typically, this would include outside police, the Office of the State Inspector General, the Commission of Correction, and similar agencies. While members may be compelled, by subpoena or otherwise, to answer questions from such investigative agencies, members are typically advised in that context that they have the right to legal counsel and/or that they may be granted certain legal privileges or immunities with respect to such questioning.

NYSCOPBA stewards should not attempt to represent members in such outside investigations. Members who are approached by such outside investigators can be referred to NYSCOPBA's legal counsel, or advised that they should seek their own legal counsel in such matters.

9.4 **Frequently Asked Questions Regarding Employment Discrimination Investigations**

Question: Are members entitled to representation during questioning by the Department of Corrections and Community Supervision "Diversity Management" investigators?

Answer: Whenever a member is questioned by Diversity Management (or the Inspector General, or any management official) regarding workplace discrimination, the same Taylor Law and contractual rights apply. This means that, if the member could be disciplined for what he or she may have done or failed to do regarding alleged discrimination, the member is entitled to a union representative whenever a DOCCS official questions the member about such an incident.

It is also NYSCOPBA's position that, even when the member is not alleged to have committed an overt act of discrimination, an alleged failure to report such conduct committed in his or her presence could result in discipline. Therefore, any questioning about such conduct should entitle the member to representation.

Question: Is the alleged victim of discrimination (the complainant) entitled to union representation when questioned by Diversity Management?

Answer: If the member requests union representation, it is NYSCOPBA's position that the member has a right to union representation.

Question: Can the union provide the same union representative to the complainant and the alleged perpetrator during a Diversity Management?

Answer: It would be in everyone's best interest (the union, the complainant, witnesses and the alleged perpetrator) to avoid any appearance of a conflict of interest. For that reason, if at all possible, the union should try to provide different representatives for the alleged victim and the alleged perpetrator.

Question: What should the local do if the New York State Division of Human Rights ("DHR") or the Equal Employment Opportunity Commission ("EEOC") arrive at the workplace and try to question members regarding alleged discrimination?

Answer: The EEOC and DHR are outside investigative agencies and, pursuant to the Outside Police Agreement, the employing agency cannot require members to answer their questions. While members may be compelled, by subpoena or otherwise, to answer questions from these outside agencies, the members should be referred to counsel if they are served with any papers compelling testimony before such bodies. Because members cannot be compelled by their employing agencies to answer questions from these outside investigative agencies, NYSCOPBA does not typically provide representation for such interrogations. It is NYSCOPBA's policy to advise the members of their rights pursuant to the Outside Police Agreement, advise the members to seek legal counsel and *not* to provide union representation for such questioning.

Local Office of Special Investigations Q & A Notes: Highlights

1. Employee rights under Bill Of Rights in CBA.
2. Rights are also preserved under Directive 0102.
3. Do not submit to questioning without a Union representative.
4. 24-hour notice must be given to the employee. (It is not mandatory for Union to be notified by OSI or management) Such notification shall include facts sufficient to reasonably inform the employee of the particular nature of the investigation.
5. Ask for questioning to be rescheduled if Union representation is not available.
6. Employee should remove all papers, notes, calendar books etc.... as this information can be used in questioning if on your person.
7. Pace is important. Do not rush answers. Do not anticipate what the OSI question will be. Let investigator finish question; think and then answer.
8. Breaks can be requested and granted upon completion of a line of questioning.
9. Only answer what is asked – Don't elaborate.
10. Questions should only be asked once. Once an answer is given to a question, it should not be asked again.
11. Answers should be as short as possible.
12. Don't answer hand gestures – make them ask a question.
13. Ask for clarification of any question you don't understand.
14. Ask investigator to repeat.
15. You can not speculate why another Officer, Supervisor, Civilian or inmate said something or performed some action – you are not them.
16. You are not a doctor – don't make medical determinations.
17. When asked if there is anything you would like to add in this statement, take a time out and discuss privately with Union representative. Usually there is nothing to add, but certain circumstances may warrant otherwise.
18. **DO NOT SIGN INVESTIGATOR NOTES** – The investigator will likely read his / her notes and will ask you if you feel they are accurate; then want you to sign them. You are not the investigator.

BILL OF RIGHTS

To insure that individual rights of employees in the Security Services Unit are not violated, the following shall represent the Employees' Bill of Rights:

- (A) An employee shall be entitled to Union representation at each and every step of the grievance procedure set forth in this Agreement.
- (B) An employee shall be entitled to Union representation at each stage of a disciplinary proceeding instituted pursuant to Article 8 of this Agreement.
- (C) No employee shall be requested to sign a statement of an admission of guilt to be used in a disciplinary proceeding under Article 8 without having Union representation.
- (D) No recording devices of any kind shall be used during any disciplinary proceedings except as provided for in Article 8, unless agreed to by all parties and each party receives a copy of the tape.
- (E) In all disciplinary hearing proceedings under Article 8, the burden of proof shall rest with the Employer.
- (F) An employee shall not be coerced or intimidated or suffer any reprisal either directly or indirectly that may adversely affect his hours, wages, or working conditions as the result of the exercise of his rights under this Agreement.
- (G) An employee shall be entitled to Union representation at an interrogation if it is contemplated that such employee will be served a notice of discipline pursuant to Article 8 of this Agreement. Such employee shall not be required to sign any statement arising out of such interrogation.
- (H) Except as provided below, any statements or admissions made by an employee during such an interrogation without the opportunity to have Union representation may not be subsequently used in a disciplinary proceeding against that employee.
- (I) If representation is requested by the employee and if such representation is not provided by the Union within a reasonable period of time, the Employer may proceed with the interrogation.
- (J) The Employer shall not infringe upon the right of an employee to be accompanied by counsel as provided by Section 73 of the Civil Rights Law, when said employee is

summoned to appear before any “hearing” or before any “agency”, as such terms are defined in Section 73 of the Civil Rights Law.

(K) Any employee who is subject to questioning by his/ her Department’s Office of Special Investigations (formerly Inspector General’s Office) shall, whenever the nature of the investigation permits, be notified at least 24 hours prior to the interview. Such notification shall include facts sufficient to reasonably inform the employee of the particular nature of the investigation.

(L) Any employee who was notified that there was an investigation pending against him or her by their Department’s Office of Special Investigations shall be notified by the Employer of the closure of the investigation within two weeks of the closure of such investigation related to such employee.

(M) The Employer shall keep confidential all employee medical records.

 NEW YORK STATE Corrections and Community Supervision REVISION NOTICE	TITLE		NO. 0102
	Rights of Departmental Employees		
REVISES DIR# 0102 Dtd. 12/13/2016	DISTRIBUTION A	PAGES PAGE 1 OF 1	DATE 01/19/2017
REFERENCES (Include but are not limited to) Article 75 of the Civil Service Law for M/C employees Collective Bargaining Agreements	APPROVING AUTHORITY 		

Added new material double underlined. Delete material ~~lined out.~~

□ Section II-B-2-a-6

The following Garrity warnings will be given to the employee concerned (Either~~both~~ in writing with a signed receipt or transcribed on the record with the employee acknowledging his or her understanding) prior to the commencement of the interrogation.

 <p>NEW YORK STATE Corrections and Community Supervision</p> <p>DIRECTIVE</p>	TITLE		NO. 0102
	Rights of Departmental Employees		DATE 12/13/2016
SUPERSEDES DIR# 0102 Dtd. 04/03/15	DISTRIBUTION A	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Article 75 of the Civil Service Law for M/C employees Collective Bargaining Agreements	APPROVING AUTHORITY 		

I. **DESCRIPTION:** This directive sets forth the rights of Department of Corrections and Community Supervision (the Department) personnel relating to investigations by the Department of Corrections and Community Supervision.

II. **INVESTIGATIONS BY THE DEPARTMENT**

A. References & Background:

The U.S. Supreme Court in Garrity v. New Jersey, 385 U.S. 493 (1967) and Gardner v. Broderick, 392 U.S. 273 (1968) held that where government employees being investigated for misconduct and/or criminal conduct were given a choice, either to give a statement or face disciplinary action, the government employees' confessions were not voluntary. Therefore, any such statements were taken in violation of the Fifth Amendment and cannot be used against the employee in a criminal trial.

Yet in subsequent cases, courts have made it clear that an employee cannot refuse to answer work related questions if they are given immunity under Garrity. This means any such statements are not admissible in a subsequent criminal prosecution but can only be used to discipline the employee. See, e.g., People v. Avant, 33 N.Y. 2d 265 (1973); Matt v. LaRocca, 71 N.Y. 2d 157 (1987). Thus, a public employee who is ordered to answer questions about work related matters and given Garrity protection, who thereafter refuse to answer questions may be terminated.

B. Procedures:

The Department recognizes the need to conduct investigations into the conduct of Department employees in order to safely and effectively perform all of the functions of the Department. The Department also requires that all employees be accorded the full protections of state and federal laws, the legal system, and the employee's union contract. These procedures accomplish both objectives.

The Department will pursue two types of investigatory questioning of Department employees;

1. Questioning by a Department supervisor or other representative of the Department (e.g., a member of the Office of Special Investigations (OSI) or Bureau of Labor Relations (BLR)) in which the employee is **specifically compelled by the employer to give information** (i.e., an order and a threat of discipline to give information), but is not compelled to waive assertion of the Garrity protection (i.e., no order and no threat of discipline to waive assertion of Garrity rights; and

2. Questioning by a member of the OSI concerning potential criminal conduct by the Department employee in which there is no compulsion or threat of discipline for a refusal to answer questions. Department employees, by this or any other directive, are **not automatically compelled** to answer questions posed by the Department and will be afforded all of their statutory, constitutional and contractual rights. The following outline will further define steps that the Department will take under particular circumstances.
 - a. Questioning regarding potential Disciplinary Action: When an employee is questioned by a Department supervisor or other representative of the Department (e.g., OSI) under circumstances in which it reasonably and objectively appears that the employee may be the subject of a potential disciplinary action, and the Department may use the employee's statement(s) for disciplinary purpose, the following shall apply;
 - (1) The employee shall be notified that personal counsel or union representatives may be present at all times during the interrogation if so requested by the employee.
 - (2) The employee shall be notified that a postponement may be granted until 10:00 a.m. the following day to provide the employee the opportunity to retain counsel or union representation.
 - (3) The interrogation shall be conducted at reasonable hours. For the purposes of this directive, the term "interrogation" is defined by the applicable collective bargaining agreement or Article 75 of the Civil Service Law for M/C employees.
 - (4) No threats or offensive language will be used.
 - (5) The length of the questioning period shall not be excessive and shall include breaks for meals and personal necessities.
 - (6) The following Garrity warnings will be given to the employee concerned (both in writing with a signed receipt or transcribed on the record with the employee acknowledging his or her understanding) prior to the commencement of the interrogation.
 - (a) You are being questioned as part of an official investigation by the Department of Corrections and Community Supervision. You will be asked questions specifically directed toward and narrowly related to the performance of your official duties.
 - (b) You are entitled to all the rights and privileges guaranteed by the laws of the State of New York, the Constitution of the United States, including the right not to be compelled to incriminate yourself and the right to have legal counsel present during any questioning.
 - (c) If you refuse to testify or to answer questions relating to the performance of your official duties, you will be subject to Departmental charges which could result in your dismissal from the Department of Corrections and Community Supervision.

- (d) If you do answer, neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent Departmental charges.
 - (e) Do you understand your rights and what I have just informed you?
 - (f) Do you now wish to proceed with answering my questions?
- b. Questioning Regarding Potential Criminal Conduct: When a member of the OSI questions a Department employee regarding conduct which may result in criminal charges against that employee, but those answers are not sought for use for administrative or disciplinary purposes, the employee will be advised by the member of the OSI, in sum and substance, the following;
- (1) This is a voluntary interview;
 - (2) You are not being compelled or threatened by your employer to waive your constitutional rights;
 - (3) Whether or not you speak with me it will not be held against you;
 - (4) Do you understand your rights, and do you wish to speak with me now?

When this questioning of the Department employee by a member of the OSI is in a custodial setting under the "Reasonable Person Standard", then *Miranda* warnings also will be administered in a manner consistent with the following;

- (1) You have the right to remain silent
- (2) Anything you say can be used against you in a court of law
- (3) You have the right to an attorney present during questioning on this matter
- (4) If you cannot afford to hire an attorney, one will be appointed to represent you free of charge
- (5) You may decide at any time to exercise these rights.
- (6) Do you understand these rights?
- (7) Having these rights in mind, do you wish to waive your rights and to speak with me now?



Lippes Mathias Wexler Friedman LLP

Attorneys at Law

EMPLOYEE DISCIPLINE

I. Introduction

- A. This outline describes the disciplinary process under Article 8 of the current Agreement. Questions should be directed to your Business Agent or Vice-President.
- B. Discipline is an issue NYSCOPBA takes very seriously. Every member served with a disciplinary charge (NOD) will be given legal representation at the union's expense. NYSCOPBA's goal is to make sure every member gets the most thorough and aggressive defense possible.

II. Overview of Article 8

- A. Article 8 replaces the statutory disciplinary process set forth in *Civil Service Law (CSL § 75)*.
- B. "Just cause" is required for discipline (*See*, Article 8.2(a)). "Just cause" is defined by arbitral decisions under this and other labor contracts. See IV (F) (3) of this section for a list of seven tests of just cause.

III. Criminal activity

- A. The Union does not generally provide legal representation in criminal cases. NYSCOPBA has, however, created a Legal Defense Fund. (See, NYSCOPBA Constitution and Bylaws, Article VII Dues, paragraph A, attached at the end of this section on Employee Discipline.)
- B. Members who have criminal charges filed against them, or who believe they may be accused of a crime, should be advised to consult with a private attorney who specializes in criminal law.
- C. As stewards, your discussions with members are not protected by any legal privilege and you can be subpoenaed to testify against a member in a civil or criminal case. Be careful what you discuss with a member if the case has criminal implications. [Management cannot force you to disclose information you obtained in your capacity as a steward. This would violate the *Taylor Law*.]
- D. Where a member is up on criminal charges and a related NOD, we will coordinate defense with member's criminal attorney.

IV. Article 8 disciplinary procedure

A. Service of notice of discipline

1. The NOD is personally delivered or served by certified mail.
2. The grievant will get two copies.
3. NYSCOPBA will get notice of the name of the accused employee within 24 hours. NYSCOPBA will automatically file a grievance to protect time limits. [Note: The member “owns” the disciplinary grievance and decides whether to settle.]

B. A disciplinary grievance must be filed within 14 calendar days of service of NOD. (Article 8.2(c).)

C. Agency level meeting

1. The contract says it should be held within 14 calendar days of receipt of the grievance.
2. The agency level meeting is handled at sector level by VP, BA or grievance steward. The VP, BA or grievance steward will have access to attorney at this stage, if needed.
3. The purpose of this meeting is to present the employee's position with respect to the charges; it is also to ask management for evidence and witness statements.
4. The purpose should also be to try and settle the case. The member decides whether to accept any settlement. Be prepared to give reasons why the employer should settle — know what the defenses to the charge are and know the weaknesses in the employer's case.
5. The agency level decision is to be issued within 7 days of the meeting, by certified mail to the Union representative who was present.

D. Appeal to arbitration

1. The appeal is filed by personal service or certified mail to PERB.

2. The appeal must be filed within 14 calendar days of service of the agency level decision. (Filing will be handled by NYSCOPBA.)
 3. The union representative should fax a copy of the agency level decision to NYSCOPBA for filing of appeal to arbitration, which will be done in Albany, designating Lippes Mathias Wexler Friedman LLP as the attorney.
 4. Pursuant to NYSCOPBA policy, an attorney will be assigned.
 5. The member can choose private representation, but he/she will be responsible for all costs, including arbitrator's fees.
- E. Suspensions without pay
1. If a member is charged with the commission of a crime, he/she can be suspended before the NOD is issued, but the NOD must be issued within thirty (30) calendar days following suspension or within seven (7) days from notification of the employer that the charges have been resolved, whichever is first. (Article 8.4(a)(2).)
 2. An employee can also be suspended, without a criminal charge, if the employer determines there is probable cause to believe the member's continued presence on the job represents a potential danger to persons or property or would severely interfere with operations. In such cases, the NOD must be issued within seven calendar days of suspension. (Article 8.4(a)(1).)
 3. A suspended employee can waive the agency level meeting and proceed directly to arbitration. (Article 8.4(4).)
 4. Suspended members can use leave credits to cover suspension (Article 8.4(a)(3)).
 - a. Based on a full contract arbitration decision in *Inglee*, leave credits used to cover a suspension pursuant to this section are not used to satisfy a penalty of a period of suspension without pay assessed by a disciplinary arbitrator following a hearing. Therefore, if a member uses leave credits when initially suspended, proceeds to a disciplinary arbitration, and the arbitrator issues a penalty of a period of suspension without pay, the accruals used, pursuant to Article 8.4(a)(3) are not restored and a separate period of suspension without pay is implemented. It should be noted that, generally, if an employee enters into a settlement agreement that

includes a penalty, leave credits used pursuant to Article 8.4(a)(3), can be used to satisfy the penalty.

5. Members may be eligible for unemployment insurance benefits — determined on a case by case basis by the Department of Labor.
 6. During a period of suspension without pay pursuant to a suspension under § 8.4 of the Agreement, the State shall continue to pay its share of the cost of the employee's health, dental and vision coverage under Article 12, which was in effect on the day prior to the suspension provided that the suspended employee pays his or her share.
- F. Arbitration Hearing
1. Selection of arbitrator
 2. Witnesses and documentary evidence
 3. Seven Tests for Just Cause:
 - a. **NOTICE:** “Did the Employer give to the employee forewarning or foreknowledge of the possible or probable consequences of the employee’s disciplinary conduct?”
 - b. **REASONABLE RULE OR ORDER:** “Was the Employer’s rules or managerial order reasonably related to (a) the orderly, efficient, and safe operation of the Employer’s business, and (b) the performance that the Employer might properly expect of the employee?”
 - c. **INVESTIGATION:** “Did the Employer, before administering the discipline to an employee, make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?”
 - d. **FAIR INVESTIGATION:** “Was the Employer’s investigation conducted fairly and objectively?”
 - e. **PROOF:** “At the investigation, did the judge obtain substantial evidence or proof that the employee was guilty as charged?”
 - f. **EQUAL TREATMENT:** “Has the Employer applied its rules, orders and penalties even-handedly and without discrimination to all employees?”

- g. **PENALTY:** “Was the degree of discipline administered by the Employer in a particular case reasonably related to (a) the seriousness of the employee’s *proven* offense, and (b) the record of the employee in his service with the Employer?”
 - 4. Contents of the personnel file admissible
 - 5. Range of penalties the arbitrator may impose
 - 6. Final and binding decision
 - 7. Concept of progressive discipline
 - 8. Progressive discipline does not apply in cases of serious misconduct, such as drug use, relationship with inmate, or criminal activity (for example, theft, domestic violence, etc.)
- G. Expedited Disciplinary Arbitration

An expedited disciplinary arbitration procedure for cases in which members are suspended without pay was established in the most recent collective bargaining agreement. The procedure will remain in effect until the end of the current contract (March 31, 2016), at which point it will expire unless jointly renewed. The parties have been consistently renewing this procedure since the expiration of the Collective Bargaining Agreement. The procedure has mandatory disclosure provisions; a hearing process that should be completed within 90 days; and a rotating panel of arbitrators to hear and decide cases and issues that arise during the process.

Procedure:

- A. The employee or the Union must file a disciplinary grievance within 14 calendar days of the date of the Notice of Discipline.
- B. Within 14 calendar days of the date the disciplinary grievance is mailed, notice must be provided to the department or agency head or designee that the grievance is submitted to the expedited arbitration procedure.
- C. If the department of agency cannot accept the submission for expedited arbitration, the department or agency has 7 calendar days of receipt of the notice to inform the Union or employee, if not represented by the union, of the reason that the matter cannot be accepted for expedited arbitration or agree to extended timeframes that are mutually acceptable to the parties

if the department or agency can accommodate such request to extend such timeframes.

- D. A list of witnesses must be provided to the Union within 15 business days of receipt of the notice of expedited arbitration, copies of written statements and documentation. NYSCOPBA must also provide information to the employer within 15 business days from receipt of the information from the employer but, in any event, no fewer than 5 calendar days prior to the hearing.
- E. A hearing must be completed within 90 days. If there are disputes, it will be decided by the arbitrator who has the authority to put employees on the payroll. If the delay is caused by the employee, the arbitrator can also toll back wages. The arbitrator shall make an award within 10 business days of the close of the hearing or receipt of closing arguments, where applicable. However, the parties may mutually agree to extend any of the time limits.

V. Grievance Investigation

- A. Stewards may be asked to assist our attorneys, Vice-Presidents and Business Agents in preparing the member's defense. Please make sure that the member contacts the assigned attorney.
- B. Personal history folder (Article 10).
 - 1. We will need to know about prior discipline, counseling, commendations, length of service, etc.
 - 2. We will need copies of some documents from file.
 - 3. This information can be obtained under Article 10.
- C. Witnesses we will need: who are they, where and when can they be reached, and what can they testify about. (Subpoenas)
- D. We will need copies of any relevant local agreements or policies.

VI. Settlements

- A. In a disciplinary case, the Grievant will be the one who decides whether to accept a settlement.
- B. It is the obligation of the Union representatives to properly advise the grievant about the settlement offer; the likelihood of success on the

grievance; all the implications of settlement; and particularly that the grievant's acceptance of settlement is voluntary.

- C. Grievants who have not yet been assigned an attorney should also be advised that they can speak to a NYSCOPBA attorney before deciding whether to accept a settlement offer.
- D. A settlement will become part of the grievant's record, and can be used in subsequent disciplinary action to justify higher penalties (progressive discipline), unless the settlement includes a provision keeping the NOD, settlement and related records out of the grievant's file.

VII. The Justice Center

A. Investigation/Disciplinary Process:

- 1. The Justice Center can stand in the shoes of the employer for purposes of investigating and pursuing disciplinary matters, but only with respect to certain agencies that employ NYSCOPBA Law Enforcement members. This means that the Justice Center can question members regarding an incident, they can be a part of the drafting and/or issuing of a Notice of Discipline (“NOD”) against members, and they can act as the prosecutor of disciplinary matters at arbitration hearings.
- 2. When the Justice Center acts in this manner, they are treated the same as if your employer was doing the questioning or prosecuting the NOD. All of the rights of the collective bargaining agreement are to be provided (i.e. BOR for representation and notice, and Article 8 procedures for NOD's), as well as the rights to representation contained in the *Taylor Law*. Frequently, an individual from the employing agency will also be present for each of the steps.

B. Report of Substantiated Finding/Staff Exclusion List Charges:

The Justice Center also has the authority to issue a Report of Substantiated Abuse or Neglect Findings against a member. (Again, only in certain agencies, specifically those that employ our NYSCOPBA Law Enforcement members.)

- a. Such Reports are separate charges from a Notice of Discipline and proceed through a separate process. This procedure is often referred to as “Staff Exclusion List Charges.”
- b. Following a report called into the Justice Center of suspected abuse or neglect, the Justice Center must investigate and issue a finding. This investigation is often the same investigation that can or does

lead to a Notice of Discipline (because the Justice Center and the agency are interchangeable for investigation/disciplinary purposes.)

- c. If the Justice Center finds that the report is “substantiated,” a notice indicating this is mailed to the member’s home. This notice will be entitled “Report of Substantiated Finding.” There are separate procedures to appeal these charges. These charges are not the same as disciplinary charges. If the report remains “substantiated,” depending on the category of the offense, the member could be placed on a list – called the staff exclusion list – that could affect potential employment outside of the member’s current facility in the future. Due to the NYSCOPBA collective bargaining agreement, a member cannot be terminated (or otherwise disciplined) based on these charges. But, the outcome of these charges could potentially affect future employment.

- d. Due to the differences in these two types of charges, it is possible for a member to receive both a NOD and a Report of Substantiated Finding charge based on the same incident. **Unlike NODs, Reports of Substantiated Finding charges are not sent to NYSCOPBA and there is no automatic appeal of these charges.** If a member receives a Report of Substantiated Finding in the mail, and the member wishes to appeal, it is his/her obligation to do so in a timely manner. Appeals must be received by the Justice Center within 40 days of the date of the report. If the member wishes to seek NYSCOPBA’s assistance in an appeal, the member must formally request NYSCOPBA’s assistance by immediately providing a copy of the letter to the Regional Vice President.

Notice of Discipline Process

1. When a member is issued an NOD, they will receive 2 copies and the agency will generate a copy to NYSCOPBA headquarters, attention the President.
2. When NYSCOPBA receives an NOD from the agency, a disciplinary grievance is automatically filed on behalf of the member, so the agency who issued it cannot impose the penalty they are seeking. A copy of the NOD and the grievance is simultaneously sent to the regional representatives and the member. The Chief Sector Steward is **not** sent a copy of the NOD due to possible confidentiality issues surrounding the charge. **(The member owns the NOD and the grievance, NOT the UNION. The member has the choice with whom to share the NOD and grievance information.)**
3. The regional representative will schedule an agency Level hearing, unless the member desires to waive the agency hearing and proceed to arbitration. If the NOD cannot be resolved at the above mentioned hearing, the Grievance Department, upon receipt of the Agency Level denial, will forward the NOD to NYSCOPBA legal counsel so they can file a demand for arbitration with the NYS Public Employment Relations Board (PERB).
4. Throughout the disciplinary process, the regional representative may be able to negotiate a settlement (only with the full consent of the grievant) with the agency and bring resolution to the NOD. If a settlement is not possible, the NOD will proceed before an independent arbitrator who will issue a decision that is final and binding. Disciplinary grievances involving employee suspension under article 8.4 may be eligible for the expedited disciplinary arbitration process.
5. The member can choose to have either NYSCOPBA's legal counsel represent them for the NOD arbitration at no cost, or they can choose to have private legal counsel **at their own expense, including half of the arbitration cost.**



Disciplinary Grievance Form
New York State Correctional Officers & Police Benevolent Association, Inc.
Security Services Unit
 102 Hackett Blvd. • Albany NY, 12209 • (518) 427-1551
 www.nyscopba.org • nyscopba@nyscopba.org

Instructions to Employee and Agency: This form must be used by employees to start a disciplinary grievance according to Article 8 of the Agreement. Employees must be given a chance to obtain representation (either New York State Correctional Officers and Police Benevolent Association (NYSCOPBA), or an attorney of the employee's choice) in proceedings brought under Article 8 and before executing any settlement of a disciplinary grievance. In the event that any employee against whom disciplinary charges are brought by the Employer elects to be represented by any party other than the Union, such employee shall be individually responsible for all expenses which are incurred in connection with such disciplinary proceeding. No employee can be represented in such a disciplinary proceeding by any officer, executive board member, delegate, representative or employee of any actual or claimed employee organization or affiliate thereof other than NYSCOPBA.

PLEASE PRINT OR TYPE

AGENCY _____ WORK LOCATION _____ SHIFT ASSIGNMENT _____ DATE _____

EMPLOYEE'S NAME _____ HOME PHONE _____

HOME ADDRESS _____ ZIP CODE _____

EMPLOYEE'S REPRESENTATIVE: NYSCOPBA NAME _____

ATTORNEY ADDRESS _____

TELEPHONE _____

I wish to grieve the Notice of Discipline issued to me on _____ pursuant to Article 8 of the Agreement. (Employee may use this space to support this grievance.)

Remedy sought: **Dismissal of all charges and penalty sought.**

 Aggrieved Employee's Signature

Instructions to Employee: To be considered, this form must be filed with your Department or agency head or designee within 14 days* following the date of the Notice of Discipline.

Date received _____

By _____
 Agency Representative

**AGENCY DECISION
 (SEE ATTACHED)**

Date received _____

By _____
 Agency Representative

* Days shall mean calendar days

SETTLEMENT AND CERTIFICATION OF OFFER OF RIGHT TO REPRESENTATION (IF APPLICABLE)

Instructions: This form may be used to record settlements of disciplinary grievances as provided for in the Agreement, Article 8.3, Settlements. A disciplinary grievance may be settled at any time following the service of a notice of discipline. The terms of the settlement shall be reduced to writing. An employee offered such a settlement shall be offered a reasonable opportunity to have his attorney or a Union representative present before he is required to execute it. The Union grievance representative at the appropriate level shall be provided with a copy of any settlement within 24 hours of its execution.

THIS SETTLEMENT HAS BEEN MADE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 8 OF THE AGREEMENT. WE CERTIFY THAT THE REQUIRED OPPORTUNITY FOR REPRESENTATION WAS OFFERED AND THAT NO THREATS OF REPRISAL OR PROMISES OF SPECIAL CONSIDERATION WERE MADE BY AGENCY REPRESENTATIVES AS AN INDUCEMENT TO EXECUTE THIS SETTLEMENT, THE FULL TERMS OF WHICH ARE INCLUDED ABOVE.

 Employee

 Agency Representative

 Employee's Representative

 Date

SECURITY SERVICES UNIT

APPEAL TO DISCIPLINARY ARBITRATION

(Do not complete if you have executed a settlement on the reverse side)

Instructions to Employee or Representative: To appeal the agency decision to disciplinary arbitration, the employee or the President of the union must submit a copy of this form with this section filled out to the New York State Public Employment Relations Board and to the agency representative who signed the agency decision within 14 days of the service of the agency decision.

I wish to appeal this matter to disciplinary arbitration according to the provisions of Article 8 of the Agreement.

I will be represented in the arbitration by: NYS COPBA Attorney Personal Attorney

Name of Union Representative or Attorney _____

Address

Telephone Number (_____) _____

THE HEARING OF THIS MATTER WILL BE HELD IN THE LOCATION BELOW WHICH IS CLOSEST TO THE EMPLOYEE'S WORK STATION.

This proceeding should be held in (indicate one of the following):

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> ALBANY | <input type="checkbox"/> NEW YORK CITY |
| <input type="checkbox"/> BINGHAMTON | <input type="checkbox"/> PLATTSBURGH |
| <input type="checkbox"/> BUFFALO | <input type="checkbox"/> POUGHKEEPSIE |
| <input type="checkbox"/> CANTON | <input type="checkbox"/> ROCHESTER |
| <input type="checkbox"/> ELMIRA | <input type="checkbox"/> SYRACUSE |
| <input type="checkbox"/> HAUPPAUGE | <input type="checkbox"/> WATERTOWN |
| <input type="checkbox"/> MIDDLETOWN | <input type="checkbox"/> UTICA |

A copy of this appeal to arbitration has been sent to the agency representative shown on the front side of this form.

Employee Representative (optional)

Employee's Signature

Date

Date received by PERB

PERB Representative

 NEW YORK STATE Corrections and Community Supervision DIRECTIVE	TITLE Drug Tests for Employees		NO. 2115
			DATE 5/11/2017
SUPERSEDES DIR #2115 Dtd. 5/5/16	DISTRIBUTION A	PAGES PAGE 1 OF 6	DATE LAST REVISED
REFERENCES (Include but are not limited to) Public Health Law Section 575 Civil Service Law Sections 72, 75	APPROVING AUTHORITY 		

- I. PURPOSE:** The purpose of this directive is to establish a written procedure for conducting drug tests within the Department of Corrections and Community Supervision (DOCCS) of an employee when there is reasonable suspicion that such employee is under the influence of or using illegal controlled substances or abusing prescription drugs. An employee will be tested only when reasonable suspicion exists that such test would yield a positive result for the presence of illegal controlled substances or their metabolites.
- II. POLICY STATEMENT:** The use of illegal controlled substances or abuse of prescription drugs by an employee, regardless of the position held, adversely affects the accomplishment of the Department's ability to safely confine and supervise inmates, impairs the efficiency of the workforce, and endangers the lives and security of employees, inmates, and the community. Illegal drugs and/or abuse of prescription drugs undermine public trust and are, therefore, strictly prohibited by the Department. In order to identify possible illegal controlled substance usage or abuse of prescription drugs, and to curtail the introduction of illegal controlled substances into Department facilities or its offices, procedures to test for the use of illegal controlled substances shall be established. DOCCS, however, will not engage in random drug testing of its employees.
- DOCCS, as part of its concern for its employees, recognizes that the use of illegal controlled substances causes problems which may have a far reaching negative effect on the security of the Department's facilities, its offices, the community, and on the health, well-being, and productivity of the workforce. It was with problems such as these in mind that DOCCS established its Employee Assistance Program (EAP). The Department fully supports EAP and encourages employees who are addicted to illegal controlled substances or abusing prescription drugs to seek the confidential services of EAP at their workplace.
- Information concerning the use of illegal controlled substances revealed to EAP representatives by an employee cannot be used against the employee for any purpose.
- III. APPLICATION**
- A. An employee of the Department may be ordered to submit to testing to determine the presence of illegal controlled substances or abuse of prescription drugs, where reasonable suspicion to believe illegal substance abuse exists. Refusal to submit to testing, where such reasonable suspicion exists, may result in suspension and disciplinary charges.

- B. In determining whether to order a test in a particular case, the Department must balance an employee's reasonable expectations of privacy from unreasonable intrusions against the Department's interest in assuring the integrity and fitness of its employees and the safety and security of its facilities, offices, and the community.
- C. The order for a urinalysis must be justified by a reasonable suspicion that the employee has reported for duty under the influence of illegal controlled substances, abuse of prescription drugs, or is engaging in the use, distribution, or sale of illegal controlled substances either on or off duty.
- D. While the "reasonable suspicion" standard does not lend itself to precise definition or mechanical application, vague or unparticularized or unspecified or rudimentary hunches, or intuitive feelings do not meet the standard.
- E. Reasonable suspicion is the quantum of knowledge sufficient to induce an ordinarily prudent and cautious person to act under the circumstances. Reasonable suspicion must be directed at a specific person and be based on specific and articulable facts and the logical inferences and deductions that can be drawn from those facts.
- F. Reasonable suspicion may be based upon, among other matters: observable phenomena, such as direct observation of use and/or the physical symptoms of using or being under the influence of illegal controlled substances such as, but not limited to, slurred speech, disorientation, a pattern of abnormal conduct or erratic behavior, or information provided either by reliable and credible sources or which is independently corroborated.
- G. The Department will not test solely on the information of inmates or anonymous sources unless the information is corroborated by reliable and credible sources or objective evidence.
- H. Employees who are off duty at the time they are ordered to submit to a test are required to promptly report to the designated workplace to submit a specimen of their urine. Failure to promptly comply with such an order will lead to disciplinary action, which may include suspension from duty without pay.
- I. If an employee has requested EAP assistance for his or her abuse of an illegal controlled substance or prescription drug, prior to any incident leading independently to the determination of the existence of reasonable suspicion of use of an illegal controlled substance, or the employee's arrest for use, possession, or distribution of an illegal controlled substance, and such employee is following the EAP program, that employee will not be subject to drug testing under this policy for such prior use, but this policy will apply with full force to any subsequent incident where reasonable suspicion is found.

IV. PROCEDURE

- A. Whenever a supervisor reasonably suspects, based on his or her own observations, that an employee has reported for duty in an impaired condition due to the use of an illegal controlled substance or the abuse of prescription drugs, such information should immediately be communicated to the Superintendent, Regional Director, Unit Head, or their designee. Such communication should be made as confidentially as reasonably possible.

- B. The Superintendent, Regional Director, Unit Head, or the Officer of the Day will assign a supervisor to act as an investigator to conduct an investigation of the allegation. The purpose of the investigation is to determine if the available facts objectively indicate that reasonable suspicion exists to pursue the inquiry. If the allegation is based on someone's observation of the suspected employee, the investigator must personally observe the suspected employee. If there is any reason to believe the suspected employee is trafficking illegal controlled substances, the fact shall be immediately communicated to the Office of Special Investigations. The investigation should be conducted with a degree of discretion that will ensure, as much as possible, the dignity and privacy of the employee.
- C. When the Superintendent, Regional Director, Unit Head, Officer of the Day, or Deputy Chief or above from the Office of Special Investigations believes the available facts objectively indicate that reasonable suspicion exists, that a test of the employee would yield a positive result for the presence of an illegal controlled substance or its metabolites, documentation of such facts shall be maintained. The investigator shall be instructed to complete Sections I and II of [Form #1240](#), "Request for Alcohol or Drug Testing of Employee." In completing Section I, the investigator shall exercise care and accurately document the objective facts contributing to and forming the basis for the reasonable suspicion. These facts must include a description of the employee's appearance and demeanor, the observations of witnesses, and the nature and source of the information.

Where the employer's source of information constituting reasonable suspicion that a chemical test for a particular employee would likely yield a positive result consists in whole or in part of observations made by a "confidential informant" (confidential informant meaning a full time employee or agent of a governmental law enforcement agency), in such a circumstance, the source of that part of the information shall be deemed to be sufficiently identified by recording the name and location of the governmental law enforcement agency involved without disclosing the name of the "confidential informant."

In disciplinary proceedings based on refusal to submit to drug testing or upon testing positive for use, the Department cannot be compelled to reveal the name of any "confidential informant" nor can evidence of the contents of the report of such "confidential informant" be suppressed because of the Department's refusal to reveal the name of such "confidential informant."

- D. The Superintendent, Regional Director, Unit Head, Officer of the Day, or Deputy Chief or above from the Office of Special Investigations shall communicate all such information to an attorney assigned to the Office of the Deputy Commissioner and Counsel for a determination that facts required to establish reasonable suspicion are present and have been properly documented. The Communications Control Center shall be contacted in order to assist in locating an attorney during hours when these offices are closed. The attorney's determination shall be required on the appropriate form.

- E. If the attorney determines that reasonable suspicion does not exist to order testing, no testing shall occur and no documentation of the request may be kept in the employee's personnel records and evidence of the incident may never be used against any employee in any subsequent disciplinary proceeding or for any other purpose. When an attorney finds that reasonable suspicion exists, the attorney's name shall be included in the documentation, and the testing procedures below shall be followed.
- F. An employee of the Department ordered to submit to testing shall be advised that he or she has a right to consult with counsel or a union representative, and, the employee shall be afforded an opportunity, if he or she requests, to consult with counsel or a union representative provided that counsel or the union representative responds without undue delay. Reasonable efforts to assist the employee in contacting a union representative, or counsel, if the employee desires, shall be made.
- G. The employee shall also be given a verbal explanation, in the presence of counsel or a union representative if requested, of the factual basis of the reasonable suspicion including a description of the conduct leading to the formation of a reasonable suspicion, the employee's acts, the relevant dates, places and times thereof, and source of information (see limitation on disclosure of "confidential informant" in "C" above). The Superintendent, Regional Director, Unit Head, or Officer of the Day, or their designee shall either read the summary of objective facts to the employee as recorded on the appropriate form by the attorney or reiterate the objective facts to the employee as verbally communicated by the attorney pursuant to paragraph D.
- H. The Superintendent, Regional Director, Unit Head, or their designee shall order the employee to proceed to the Superintendent's Office, Bureau Chief's Office, or other secure and private location with toilet facilities, free from inmate or public scrutiny, escorted by a supervisor. Where reasonably practical, the supervisor shall be of the same gender as the person to be tested. An investigator may also serve as the escort employee. Where reasonably practical, the investigator shall be of the same gender as the person to be tested. The escorting employee shall bring the appropriate form authorizing such testing to the Superintendent, Bureau Chief, Unit Head, or their designee. Specimen collection shall occur in a private setting free of any substances which may be used to contaminate the specimen. The escorting employee will provide the employee to be tested with a container to be used to collect the samples. Visual observation of urination will not be required or permitted, except in emergencies where no other means are possible, to ensure the integrity of the sample. When visual observation is permitted, the observer will be of the same gender as the employee. If the employee is unable to provide a specimen when requested, he or she will be given a reasonable time period considering all relevant circumstances to provide the sample. The employee shall be paid for all of his or her time including overtime where applicable. The specimen will be provided by the employee being tested and the filled container will be immediately given to the escorting employee who will examine the sample to determine that it is the appropriate color, clarity, temperature, and volume.

The specimen will be immediately sealed and tagged in three separate containers, two of which the Department will maintain in custody and the third will be delivered to the employee. The Department will maintain secure custody of the two specimen containers in such a way so that they can be later tested for the presence of illegal controlled substances. Chain of custody documentation for each specimen shall be maintained from receipt to destruction. Urine specimens obtained from an employee assigned in a Community Supervision Field office shall be transferred to a correctional facility within 24 hours for secure storage in accordance with established procedures. Any urine specimen not immediately transferred to a correctional facility shall be secured in a locked and secure location in the office of the Bureau Chief. The chain of custody will reflect date and time the specimen was secured and by whom it was secured. The employee and his or her counsel or union representative shall be permitted to be present to observe the sealing and tagging of the specimen containers.

- I. In the event that the Superintendent's or Bureau Chief's office is not available, an alternate location shall be selected. Care should be taken in all cases to ensure that the privacy of the employee is considered and that every reasonable effort is made to respect the dignity of the employee. The alternate location shall be selected so as to minimize the possibility of public attention. A supervisor in all cases shall ensure the integrity of the testing procedures, including placement of the specimen in the containers and the surrender and transfer of the specimen.
- J. Throughout all aspects of these procedures, including transportation and the actual obtaining of the sample, every reasonable effort must be made to ensure the dignity and privacy of the employee. All reasonable efforts shall be made to avoid public attention, and these procedures shall be carried out as discreetly as reasonably possible.
- K. The first specimen container will undergo a laboratory testing by gas chromatography with mass spectrometry or an equivalent scientifically accepted method that provides quantitative data about the detected drug or drug metabolites. Only a laboratory licensed pursuant to Section 575 of the Public Health Law shall be used to analyze and report on samples. Any positive result of said test will be retested for verification by a confirming test conducted by the laboratory testing the first sample. The confirming test will also be gas chromatography with mass spectrometry or an equivalent scientifically accepted method. If the results of the confirming test of the original specimen are positive, the employee will have the right, within ten working days of the employee's notification in writing of the results of the confirming test, to have the second specimen tested by a licensed laboratory of his or her choice for testing by gas chromatography, with mass spectrometry or an equivalent scientifically accepted method at State expense. A copy of the lab report of such test will be provided to the employee.
- L. If the test of the second specimen is confirmed positive, or if the employee does not exercise his or her right to have the second specimen tested where the confirming test of the first sample has been positive, the employee will be notified and will be given the opportunity to present evidence and/or information that the positive test resulted from prescribed or over the counter drugs or that special circumstances may have affected the test results. The employee will be required to sign a Health Insurance Portability and Accountability Act (HIPAA) compliant release of information in the event that a physician must be contacted for clarification or verification.

- M. If the results of either of the two confirming tests are negative, the request for testing, the finding of reasonable suspicion, as well as results of said test will not be kept and Section IV-E of this directive will apply. If both confirming tests are positive, or if the first confirming test is positive and the employee waives his or her right to request a second confirming test, the employee may be suspended by the Director of Labor Relations pending disciplinary charges, provided such suspension is appropriate under the applicable collectively negotiated agreement, and law, rule, or regulation.

V. GENERAL PROVISIONS

- A. An employee's refusal to submit to ordered testing, or his or her refusal to cooperate in all aspects of the testing procedures, shall be communicated to the Director of Labor Relations and may subject the employee to suspension and severe disciplinary charges, as appropriate, under the applicable collectively negotiated agreement, and law, rule, or regulation.
- B. At the conclusion of the testing procedures, the employee may be suspended if the facts independent of the test results justify the actions and constitute a basis under the applicable collective bargaining agreement or law. In a case where an employee is judged too impaired to continue work, he or she is to be assisted with making arrangements for transport home. The employee is also to be strongly encouraged not to drive. If the employee insists on driving, the facility Superintendent, Regional Director, Unit Head, or other appropriate authority should be immediately notified.
- C. When written reports of the laboratory tests are received by the Superintendent, Regional Director, or Unit Head, a copy shall be forwarded to the employee who was tested and an additional copy forwarded to the Bureau of Labor Relations.
- D. Each test ordered under this policy shall be reviewed by the Bureau of Labor Relations to ensure compliance with all applicable procedures.
- E. Where any provision of this policy is determined to be in conflict with the applicable collective bargaining agreement or law, statute, rule, or regulation, including Civil Service Law Section 72 and Section 75, said collective bargaining agreement, law, statute, rule, or regulation will control. It is not the intent of this policy to abridge any rights an employee may have under applicable collective bargaining agreements, laws, statutes, rules, or regulations including Civil Service Time and Attendance Rules, and any rights to discretionary treatment there-under that an employee may have for discretionary treatment under the Civil Service Time and Attendance Rules.
- F. If, as a result of the investigation, just cause for discipline, as defined in the applicable collective bargaining agreement is established, discipline shall be imposed with regard to the circumstances of each case. Time in service and prior offenses or lack thereof may be considered in determining appropriate penalties.
- G. Records concerning positive tests will be maintained confidentially in the employee's medical file.
- H. An employee who claims to have been tested under this policy without reasonable suspicion can assert such claim as a defense in any disciplinary proceeding brought against him or her. Nothing in this policy shall be construed to deprive an employee of any other appropriate defenses or arguments in a disciplinary arbitration.

REQUEST FOR ALCOHOL OR DRUG TESTING OF EMPLOYEE

DATE: _____ FACILITY/FIELD OFFICE: _____

SECTION I SUBJECT OF INVESTIGATION

NAME: _____ TITLE: _____ SHIELD/ID# _____

TYPE OF TEST REQUIRED: ALCOHOL DRUG

SOURCE OF INFORMATION _____

CORROBORATION: _____

WITNESS: _____

INVESTIGATOR'S OBSERVATION AND BASIS FOR REQUEST: _____

HAS EMPLOYEE TAKEN ANY MEDICATION IN THE PAST FOUR WEEKS? YES NO

IF YES, LIST MEDICATIONS, QUANTITY AND LAST DATE TAKEN: _____

NAME OF INVESTIGATOR _____ TITLE _____

SIGNATURE _____

SECTION II AUTHORIZATION

ATTORNEY CONTACTED: _____ ATTORNEY'S DETERMINATION: TEST DO NOT TEST

NAME OF ESCORT ACCOMPANYING SUBJECT: NAME: _____ TITLE: _____

SIGNATURE: _____

SECTION III CHAIN OF CUSTODY

STARTING WITH STAFF OBTAINING SPECIMEN. ATTACH ADDITIONAL PAGES, IF NEEDED.

FROM: _____	TO: _____	DATE: _____	TIME: _____
FROM: _____	TO: _____	DATE: _____	TIME: _____
FROM: _____	TO: _____	DATE: _____	TIME: _____
FROM: _____	TO: _____	DATE: _____	TIME: _____

SECTION IV RESULTS OF TEST

LABORATORY TESTS WERE: POSITIVE NEGATIVE

SUBSTANCE DETECTED WAS: _____

COPY OF LABORATORY REPORT FORWARDED TO EMPLOYEE _____

ON: _____

COPY OF LABORATORY REPORT WAS ATTACHED AND FORWARDED TO LABOR RELATIONS AND THE SUPERINTENDENT ON: _____

NAME: _____ TITLE: _____

SIGNATURE: _____

RAINY DAY FUND POLICY

NYSCOPBA has created a Rainy Day Fund for its members. The purpose of the Rainy Day Fund is to provide supplemental income for qualifying members who are suspended without pay for disciplinary reasons for incidents that occur while on duty. For those members who do not utilize the Rainy Day Fund during their careers, a Separation Benefit is also established under this fund. The NYSCOPBA Executive Board, in its discretion, based on the facts and circumstances of each case, shall determine whether the actions occurred while the member was engaged in the lawful performance of his or her duties and that providing supplemental income during that period of suspension shall be consistent with the overall interests of the general membership. The NYSCOPBA Executive Board shall consider the following criteria:

Eligibility

Any active dues paying member in the New York State Correctional Officers & Police Benevolent Association, Inc. Union can participate in the Rainy Day Fund upon fulfillment of each of the following three criteria:

- a. Filing with the Plan Administrator a properly completed application.
- b. Approval of the application by the Rainy Day Fund.
- c. Commencement and continuation of the required contribution to the Rainy Day Fund.

Benefits under the Fund

Supplemental income during suspension

The Fund benefits described below are only available to members who receive a Notice of Discipline and are suspended without pay for incidents that occur while on duty. The NYSCOPBA Executive Board in its sole discretion shall determine whether the conduct alleged in the Notice of Discipline occurred while the member was engaged in the performance of his or her duties.

There is a fourteen (14) calendar day "waiting period" from the time the member is suspended without pay before the member becomes eligible for Fund benefits.

All Fund benefits will cease if the member agrees to settlement of the Notice of Discipline.

All Fund benefits will cease if a member is found guilty of any or all charges imposed upon him/her within the Notice of Discipline immediately as of the date of the arbitrator's

decision. The Fund will not pay supplemental income during any going forward penalty period assigned by the arbitrator and/or agreed to by the member.

All Fund benefits will cease if the member admits guilt, resigns from their position or lack of active participation from the member in the pending case.

Amount of Coverage

The maximum benefit is the lesser of \$1,500 or the members' bi-weekly salary, payable every two weeks while the member is suspended, excluding the waiting period.

Each payment will coincide with the regular pay schedule currently in place. All payments will be pro-rated based on the actual number of day(s) suspended after the member satisfies the fourteen (14) day waiting period.

All funds paid by the Rainy Day Fund are subject to both Federal and State income taxation.

Separation Benefit

In general, if a member does not utilize the Rainy Day Fund at any time during his/her employment, he/she shall be entitled to receive a benefit upon his/her retirement or separation of service. If, however, the member utilizes and subsequently fully reimburses the Rainy Day Fund for monies utilized, the member shall be entitled to the Separation Benefit upon his/her separation from service.

Amount of Coverage

Upon retirement/separation, each member shall receive a lump-sum payment calculated at the rate of \$50 per year of participation in the Rainy Day Fund, excluding the first year of participation. The maximum benefit a member shall receive shall be \$1,250, recognizing twenty-six years of service and participation in the Rainy Day Fund for twenty-six years (as the first year of service is excluded from the calculation).

All funds payable as Separation Benefit are subject to both Federal and State income taxation.

Exclusions from Coverage

The Fund does not cover acts or omissions as the result of off-duty conduct or while on a leave of absence, including but not limited to domestic incidents, outside drug and/or alcohol charges, and theft.

In addition, if the Plan Administrator determines that Fund benefits have been provided to a member as a result of misrepresentations of that member, and/or a member does

not cooperate with the Plan Administrator during the course of such member's claim for benefits, payment of such benefits may cease and the Fund will have the right to seek reimbursement from the member of any benefits already paid.

Termination of Benefits

Except insofar as to the acts or omissions giving rise to the claim occurred prior to such termination of coverage, the benefits will automatically terminate when one or more of the following situations occur:

- a. Individual ceases to be a member of NYSCOPBA;
- b. Employment terminates; or
- c. The Rainy Day Fund is terminated

Claims Procedures

Upon receiving a Notice of Discipline and/or suspension notice, the member must submit a copy of the Notice of Discipline and or suspension notice to the Regional Vice President of his or her Region who is acting as representative for the Plan Administrator for purpose of accepting the member's application.

NYSCOPBA shall provide the member with an application and the member must submit the application to the Recording Secretary who shall forward the request to the NYSCOPBA Executive Board to determine whether the member qualifies for the benefit. The NYSCOPBA Executive Board shall determine whether the member meets the criteria for the benefit.

In order to ensure timely processing of a member's claim application, the Rainy Day Fund Application should be completed accurately, including providing sufficient information for the Plan Administrator to determine that the member's conduct alleged in the Notice of Discipline occurred while the member was engaged in the performance of his or her duties.

The member must also agree that if the member is, by settlement, arbitration or other means, restored to the payroll for any period of time for which he/she received payment from the Fund, the member shall reimburse to NYSCOPBA the amount paid to the member during his/her period of suspension. The member must execute a signed agreement before receiving any payments, and as a condition thereof, if he/she receives his/her back pay, the member shall reimburse NYSCOPBA.

Benefit Claims and Review

A member is only treated as filing a claim for Fund benefits when the member submits a Rainy Day Fund Application to the Plan Administrator. For purposes of the Fund's claims and review procedures, a member is not treated as filing a claim for Fund benefits when the member or the member's representative asks the Plan Administrator by telephone if coverage is available to the member for a particular incident.

The Plan Administrator will notify a member in writing if the member's claim for Fund benefits is denied, within the time periods described below. The notice will set forth:

- The specific reason or reasons for the denial;
- Reference to the specific Fund provisions on which the denial is based;
- A description of any additional material or information necessary for the Participant to perfect the claim and an explanation of why the material or information is necessary; and
- A description of the Fund's review procedures and the time limits applicable to the review procedures, including a statement of the Participant's right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), if the claim for benefits is denied on review.

The Plan Administrator will provide the written notice to the member as soon as possible, but not more than 90 days after the Plan Administrator receives the Participant's claim, unless the Plan Administrator determines that an additional period of time, not to exceed 90 days, is required because of matters beyond the control of the Plan. If an additional period of time is required, the Plan Administrator will notify the Participant in writing of the circumstances requiring the extension of time and the date by which the Plan Administrator expects to render a decision.

If the Plan Administrator notifies a Participant that the Plan Administrator has denied all or part of the Participant's claim, the Participant may request a review of the denial. The Participant or the Participant's authorized representative must notify the Review Panel of the Plan Sponsor in writing of the Participant's request for a review of the denial within 60 days after the Participant receives written notice of the denial from the Plan Administrator.

The Review Panel will give the Participant or the Participant's authorized representative the opportunity to submit written comments, documents, records, and other information relating to the Participant's claim for Fund benefits.

Upon request and free of charge, the Participant or the Participant's authorized representative will be provided reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits.

The Review Panel's review will take into account all comments, documents, records, and other information submitted by the Participant or the Participant's authorized representative relating to the claim, without regard to whether the information was submitted or considered by the Plan Administrator.

The Review Panel will notify a Participant in writing of the Review Panel's decision upon review. The notice will set forth:

- The specific reason or reasons for the decision;
- Reference to the specific Fund provisions on which the decision is based;
- A statement that the Participant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits; and
- A statement of the Participant's right to bring an action under Section 502(a) of ERISA.

The Review Panel will make its decision no later than 60 days after the date the Review Panel received the request for review. However, if the Review Panel determines that special circumstances require an extension of time for processing the review request, the Review Panel will notify the Participant in writing before the end of the initial 60-day period. The notice to the Participant will indicate the special circumstances requiring the extension of time and the date as of which the Review Panel will make its decision, which must be within 120 days after the date the Review Panel received the request for review.

THE RAINY DAY FUND APPLICATION AND AGREEMENT

To: _____
(Recording Secretary)

Date: _____

From: _____
(Your Name)

Title: _____
(Your Title)

Agency and Facility: _____
(Your Agency & Work Location)

Email: _____
(Please Print)

Telephone: _____
(Home Phone)

(Cell Phone)

All information and documents below are REQUIRED

Specify how the conduct alleged in the Notice of Discipline (NOD) occurred while you were engaged in the performance of your duties under your specialized official title.

The Rainy Day Fund (RDF) began March 1, 2016. This Application and Agreement shall comply with the terms of the RDF Policy. In the event this Application and Agreement conflicts with the terms of the RDF Policy, the terms of the RDF Policy shall prevail.

Before being eligible to participate in the RDF, I must execute this Application and Agreement. Applications will be submitted to NYSCOPBA’s Executive Board for monthly review. If approved, the availability of funds may revert back to the date of application, but no sooner than fourteen days from the date of suspension.

I hereby understand that by submitting this signed Application and Agreement; if I am restored to the payroll for any period of time for which payment is received from the RDF whether by settlement, Arbitrator decision, or other means; I shall immediately reimburse to NYSCOPBA the amount paid to me during my period of suspension. Additionally, I understand that, if payment is received from RDF after the date of settlement or Arbitrator decision, I shall reimburse to NYSCOPBA the amount paid to me after settlement or decision. As a condition to receiving benefits under this fund, I hereby assign NYSCOPBA any back pay I subsequently receive, whether through settlement, arbitration award or otherwise; to the extent of the benefits received under this Fund.

Upon demonstrating that I am suffering a hardship, and am unable to immediately reimburse NYSCOPBA; NYSCOPBA in its sole discretion may agree to offer applicant a payment plan in an effort to satisfy the balance due.

In the event (a) I violate the terms contained in the RDF Policy or the RDF Application and Agreement or (b), fail to make payment as set forth herein or set forth in the payment plan authorized by NYSCOPBA; I agree to pay interest on the outstanding balance at a rate of 9% per annum until the balance is paid in full and reasonable attorney fees, collection fees and/or costs incurred in recover of the outstanding obligation herein.

****MONEY APPROPRIATED THROUGH THIS FUND IS CONSIDERED TAXABLE INCOME **** Proper tax documentation will be filed with appropriate taxing authorities.

I also understand I am not entitled to receive a separation benefit from NYSCOPBA upon my retirement from service unless I subsequently reimburse the RDF for money utilized. If, however, I fully reimburse the RDF I shall be entitled to the separation benefit upon my separation from service.

I also acknowledge that I have been provided a copy of the RDF policy and fully understand the terms set forth therein.

****Please note that the address noted on the issued NOD will be where the RDF checks are mailed if approved. If no address is noted on the NOD the RDF checks will be mailed to the address currently on file with your payroll department. If you would like the check(s) mailed to a different address you must note the address on this application.**

Please check off the method of delivery to receive your funds, if approved.

Mail paper check

Direct Deposit – Please provide the following;

Routing Number (9 -Digits) _____

Account Number (3-17 Digits) _____

Bank Name - _____

Name on Account - _____

- Please include a voided check with your application if choosing Direct Deposit

Signed: _____ Date: _____

PLEASE MAIL ALL APPLICATIONS TO: NYSCOPBA, 102 HACKETT BLVD., ALBANY, NY 12209 – ATTN: MIKE DILDINE, RECORDING SECRETARY

OUTLINE OF POLICY AND PROCEDURES FOR REPRESENTATION WHEN A MEMBER RECEIVES A NOTICE OF DISCIPLINE (NOD) AND FAILS TO COOPERATE IN HIS/HER DEFENSE

Discipline is an issue NYSCOPBA takes very seriously. Every member served with a disciplinary charge (Notice of Discipline) is provided legal representation at the Union's expense. NYSCOPBA's goal is to make sure every member gets the most thorough and aggressive defense possible.

In order to achieve this goal, it is imperative that the member who receives the Notice of Discipline cooperates in his/her defense. If the member fails to cooperate in his/her defense, the NYSCOPBA Executive Board, in its discretion, based on the facts and circumstances of each case, shall determine whether it is appropriate to continue to represent the member and pay for his/her legal representation, including the costs associated with arbitration. The following procedures shall be followed by the NYSCOPBA Executive Board prior to rendering a determination not to represent the member:

- 1) The assigned attorney writes a letter to the member at the last known address as listed on NYSCOPBA's database advising the member that he/she is represented by the attorney. The letter shall ask the member to contact the attorney. The Vice President and/or Business Agent of the region and Chief Sector Steward will be provided a copy of the letter.
- 2) If the attorney does not hear from the member, the Vice President/ Business Agent and/or Chief Sector Steward shall contact the member and ask him/her to contact his/her assigned representative.
- 3) If NYSCOPBA does not hear from the member, a second letter will be sent by either the assigned attorney and/or the Vice President and/or Business Agent of the region. Additionally, the regional representative and local steward shall attempt to contact the member and advise him/her to contact the assigned NYSCOPBA representative.
- 4) If the member fails to cooperate, a third letter shall be sent to the member advising the member that unless he/she contacts NYSCOPBA, a recommendation will be made to the Board that NYSCOPBA is unable to represent the member. The member will be advised that NYSCOPBA's Board will address his/her situation and the Executive Board may authorize the attorney to resign from the case. The letter will also advise the member that he/she will have to retain representation at his/her own expense which includes the cost of the hearing.
- 5) The Board has the authority to take appropriate action including, but not limited to, advising the member that since he/she has failed to assist in his/her representation, NYSCOPBA is unable to represent the member in the defense of the Notice of

Discipline. The member will be responsible for the payment of his/her attorney fees and the cost associated with the hearing.

- 6) A final letter will be sent to the member advising the member of NYSOCPBA's determination and/or any other actions the NYSCOPBA Board chooses to make based on the facts and circumstances of the particular matter.
- 7) The arbitrator and the State's representative will be notified that NYSCOPBA is not representing the member in the disciplinary grievance.

August 8, 2012
Executive Assembly Meeting

Policy was adopted with objectors

Luther, Sing Sing; VP Perez, Southern Region; Patterson, Edgecombe;
Hale, Bedford Hills; Lashua, Greene

LEGAL DEFENSE FUND POLICY

NYSCOPBA has created a Legal Defense Fund for its members. The NYSCOPBA Executive Board, in its discretion, based on the facts and circumstances of each case, shall determine whether the actions occurred while the member was engaged in the lawful performance of his or her duties and that assisting in such legal defense shall be consistent with the overall interests of the general membership. The NYSCOPBA Executive Board shall consider the following criteria:

1. Eligibility

Any active dues paying member in the New York State Correctional Officers & Police Benevolent Association, Inc. Union can participate in the Legal Defense Fund upon fulfillment of each of the following three criteria:

- a. Filing with the Plan Administrator a properly completed application.
- b. Approval of the application by the Legal Defense Fund.
- c. Commencement and continuation of the required contribution to the Legal Defense Fund.

2. Benefit

The purpose of the Legal Defense Fund is to provide legal defense for qualifying members for actions that occur while the member was engaged in the lawful performance of his or her duties. A "member" is an employee of the Security Services Unit of New York State represented by NYSCOPBA.

- a. **Performance of Duty:** The coverage is only for members' acts or omissions that occurred in the course and scope of the members' performance of duty and must be consistent with the overall interests of the general membership. If the member is involved in alleged off-duty conduct, money from the Legal Defense Fund shall not be used (e.g. domestic incidents, outside drug and/or alcohol charges, workers' compensation, theft).
- b. **Former Member:** The member must be an active member, except insofar as the event giving rise to the claim occurred while the individual was an active member.
- c. **Approved Leave of Absence:** If the member is on leave of absence approved by his or her employer, the member will be eligible for benefits under the Legal Defense Fund for events occurring prior to his or her approved leave of absence. Events occurring while the member was on the leave will not be covered.

3. Amount of Coverage

The maximum benefit per occurrence is \$25,000. The \$25,000 shall be broken down in the following manner:

- a. \$5,000 may be provided up to the time of arraignment.
- b. When a criminal information and/or indictment is issued, the member may request from the Legal Defense Fund additional funds in increments up to \$10,000.
- c. The total benefit available from the Legal Defense Fund [for any qualifying incident] may not to exceed \$25,000.

4. Exclusions from Coverage

The Fund does not cover acts or omissions as the result of off-duty conduct or while on a leave of absence, including but not limited to domestic incidents, outside drug and/or alcohol charges, and theft. No benefits under the Fund will be provided with respect to workers' compensation claims, all civil defense, or post-sentencing or appellate review.

In addition, if the Plan Administrator determines that Fund benefits have been provided to a member as a result of misrepresentations of that member and/or a member does not cooperate with the Plan Administrator during the course of such member's claim for benefits, payment of such benefits may cease and the Fund will have the right to seek reimbursement from the member of any benefits already paid.

5. Termination of Benefits

Except insofar as to the acts or omissions giving rise to the claim occurred prior to such termination of coverage, the benefits will automatically terminate when one or more of the following situations occur:

- a. Individual ceases to be a member of NYSCOPBA;
- b. Employment terminates; or
- c. The Legal Defense Fund is terminated.

6. Claims Procedures

- a. If a member seeks an allocation from the Legal Defense Fund, he/she must submit a Legal Defense Fund Application to the Regional Vice President of his or her Region who is acting as representative for the Plan Administrator for purpose of accepting the member's application. The member may initially seek up to \$5,000 up to the time of arraignment as set forth in Amount of Coverage.

- b. After the member has been arraigned, he or she may request additional funds from the Plan Administrator with an explanation of how (i) the action occurred while the member was engaged in the lawful performance of his or her duties and (ii) assisting in such defense shall be consistent with the overall interests of the general membership. The coverage is only for lawful acts or omissions that occurred in the course of employment. The member must make clear in his or her application how his or her request is related to such events. The payments will be made only after the member complies with all requests of the Plan Administrator. If the Plan Administrator approves the member's request, the check will be transmitted directly to the member's criminal attorney. To the extent the member already paid the attorney, the member will need to request reimbursement of fees from the attorney.
- c. In order to ensure timely processing of a member's claim application, the Legal Defense Fund Application should be completed accurately, including providing sufficient information for the Plan Administrator to determine that the member's actions which are the subject of the complaint are within the course and scope of employment covered by the Legal Defense Fund.
- d. The member must also attach documentation that the member applied for reimbursement under NYS Public Officers Law (POL) Section 19.
- e. The member must also agree that if the member is acquitted of the charges or it is determined that the member is entitled to reimbursement of his/her legal fees, the member agrees to cooperate with NYSCOPBA in seeking reimbursement from the NYS Attorney General's Office and return money given from the Fund to NYSCOPBA.

7. Benefit Claims and Review

A member is only treated as filing a claim for Fund benefits when the member submits a Legal Defense Fund Application to the Plan Administrator. For purposes of the Fund's claims and review procedures, a member is not treated as filing a claim for Fund benefits when the member or the member's attorney asks the Plan Administrator by telephone if coverage is available to the member for a particular incident or legal action.

The Plan Administrator will notify a member in writing if the member's claim for Plan benefits is denied, within the time periods described below. The notice will set forth:

- a. The specific reason or reasons for the denial;
- b. Reference to the specific Fund provisions on which the denial is based;
- c. A description of any additional material or information necessary for the Participant to perfect the claim and an explanation of why the material or information is necessary; and

- d. A description of the Fund's review procedures and the time limits applicable to the review procedures, including a statement of the Participant's right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), if the claim for benefits is denied on review.

The Plan Administrator will provide the written notice to the member as soon as possible, but not more than 90 days after the Plan Administrator receives the Participant's claim, unless the Plan Administrator determines that an additional period of time, not to exceed 90 days, is required because of matters beyond the control of the Fund. If an additional period of time is required, the Plan Administrator will notify the Participant in writing of the circumstances requiring the extension of time and the date by which the Plan Administrator expects to render a decision.

If the Plan Administrator notifies a Participant that the Plan Administrator has denied all or part of the Participant's claim, the Participant may request a review of the denial. The Participant or the Participant's authorized representative must notify the Review Panel of the Plan Sponsor in writing of the Participant's request for a review of the denial within 60 days after the Participant receives written notice of the denial from the Plan Administrator.

The Review Panel will give the Participant or the Participant's authorized representative the opportunity to submit written comments, documents, records, and other information relating to the Participant's claim for Fund benefits.

Upon request and free of charge, the Participant or the Participant's authorized representative will be provided reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits.

The Review Panel's review will take into account all comments, documents, records, and other information submitted by the Participant or the Participant's authorized representative relating to the claim, without regard to whether the information was submitted or considered by the Plan Administrator.

The Review Panel will notify a Participant in writing of the Review Panel's decision upon review. The notice will set forth:

- a. The specific reason or reasons for the decision;
- b. Reference to the specific Fund provisions on which the decision is based;
- c. A statement that the Participant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits; and
- d. A statement of the Participant's right to bring an action under Section 502(a) of ERISA.

The Review Panel will make its decision no later than 60 days after the date the Review Panel received the request for review. However, if the Review Panel determines that special circumstances require an extension of time for processing the review request, the Review Panel will notify the Participant in writing before the end of the initial 60-day period. The notice to the Participant will indicate the special circumstances requiring the extension of time and the date as of which the Review Panel will make its decision, which must be within 120 days after the date the Review Panel received the request for review.



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 nyscopba@nyscopba.org



LEGAL DEFENSE FUND APPLICATION

To: _____
(Your Regional Vice President)

Date: _____

From: _____
(Your name)

Title: _____
(Your title)

Agency and Facility: _____
(Your agency and work location)

E-Mail: _____
(Please print)

Telephone: _____
(Home phone)

(Cell Phone)

Amount Requested: _____

All information and documents below are REQUIRED. The application CANNOT be considered by the Executive Board until all three requirements below are met.

- 1. Attach a copy of the information, complaint, accusatory instruments and/or Grand Jury Subpoena.** If you do not have any of the above, attach an additional sheet containing date, time, nature of the arrest and the agency and/or department who arrested you.
- 2. On an attached sheet, state how your alleged act or omission occurred in the course and scope of your lawful performance of duty.** The Executive Board will consider whether assisting in such legal defense is consistent with the overall interests of the general membership.
- 3. Attach documents showing you applied for reimbursement under NYS Public Officer Law §19.** The application for reimbursement is attached to this application and must be sent by you, via certified mail return receipt requested and via regular mail to the Attorney General's Office. Reimbursement under Section §19 of the Public Officers Law is time-sensitive and is conditioned on delivering to the Attorney General's office a written request for reimbursement within ten (10) days after arraignment or after a grand jury appearance. Written evidence (such as a subpoena) of the grand jury appearance is also required. Further, §19 of the Public Officers Law conditions reimbursement upon your full cooperation in the defense of any action or proceeding against the State which might have arisen out of your actions. Reimbursement is left to the discretion of the Attorney General's Office. (Attached is a copy of Public Officer's Law §19 and the policy adopted by the Executive Assembly October 2012.)

Signed: _____

Date: _____



Lippes Mathias Wexler Friedman LLP

Attorneys at Law

CONTRACT GRIEVANCES

I. Introduction

- A. NYSCOPBA, as certified bargaining agent for the Security Service Unit (SSU), has the *exclusive* right to administer and enforce the Agreement.
- B. Article 7 of the Agreement contains a comprehensive grievance procedure to address alleged violations of the Agreement.

II. Background

- A. The Taylor Law requires public employers to negotiate with bargaining representatives regarding terms and conditions of employment, and encourages parties to agree on procedures to resolve any disputes that may arise between them.
- B. This furthers the public policy of the State which is to promote peaceful and harmonious public sector labor relations and to prevent strikes.
- C. A contract grievance procedure is part of the continuing process of collective bargaining:
 - 1. it replaces contract litigation (unlike litigation, parties to the agreement have to continue to work together);
 - 2. it is supposed to be faster, cheaper, less technical;
 - 3. it should provide a quick way to identify and resolve labor disputes to keep them from getting out of hand, damaging morale and interrupting the smooth operation of the employer's business.
- D. "Grievance" Defined
 - 1. A grievance can be any dispute between Labor and Management.
 - 2. In the context of a collective bargaining agreement, look to Article 7 Grievance and Arbitration to define what may be grieved.

E. "Grievance Procedure" Defined

1. A grievance procedure is a series of steps, defined by the contract, explaining:
 - a. who can file a grievance;
 - b. who hears and decides grievances;
 - c. any appellate steps;
 - d. time limits and other procedural requirements; and
 - e. what remedies can be awarded for violations.

F. Goals of the Contract Grievance Process:

1. To enforce the agreement.
2. To identify labor-management problems and resolve them as quickly as possible.
 - a. If a grievance procedure is working properly, most grievances should be resolved at early stages to avoid adverse consequences to morale and productivity.
 - b. This requires both union and management to pay attention to the grievance procedure by:
 - (1) adhering to time limits;
 - (2) listening to the other side's story or explanation; and
 - (3) considering reasonable offers of compromise.

G. Grievance "Ownership"

1. The contract defines who can file and process a grievance. This is known as grievance "ownership."
2. NYSCOPBA's contract, like most, allows any employee to file at Step 1. Only the union can take grievances to Step 2 and beyond.
3. This is because the union is the exclusive representative of the entire workforce. Grievance decisions at the higher steps may

affect the rights of many or even all employees. Therefore, only the union can take grievances to these levels.

- a. This ensures consistent results.
 - b. It also ensures that once a matter is settled it does not have to be revisited for every other member of the unit.
4. Because the union “owns” contract grievances at Steps 2-4, it can settle or withdraw a grievance without the individual grievant’s consent, so long as the decision is consistent with the duty of fair representation. [Exception: Disciplinary grievances (Article 8) are owned by the member throughout the whole process.]

III. **Failure to follow the grievance procedure (Self- Help)**

- A. Occasionally an employee will disobey a supervisory directive, based on a claim that the directive violates a contract right (e.g., I do not have to do that job because it is out of title). This is known as “self-help.”
1. The general rule is that an employee can be punished as insubordinate even if he or she is later found to be right.
 2. The employee generally should obey the order and file a grievance — “work now, grieve later.” The reason for this is that operations would be disrupted if supervisory directives could be disobeyed pending formal resolution of contract grievances.
 3. There are some exceptions to the work now, grieve later rule, including orders that:
 - (a) present serious safety hazards;
 - (b) require clearly illegal acts; or
 - (c) require an act which is clearly beyond supervisor’s power.

IV. **Article 7 — Grievance and Arbitration**

- A. This is the main grievance article of the current agreement for the SSU. It excludes disciplinary cases, which are covered by Article 8.
- B. “Contract” versus “Non- Contract” Grievances
1. Article 7.1(a) defines a contract grievance as: “a dispute concerning the application and/or interpretation of this Agreement. . . .” Article 7.1(a) grievances can go to

arbitration. You must grieve an article of the agreement or a preserved benefit (see Article 27).

2. Article 7.1(b) defines “non-contract” grievances as “any other dispute or grievance concerning a term or condition of employment which may arise out of an action within the scope of authority of a department or agency head which is not covered by this Agreement. . .” Article 7.1(b) grievances end at alternative dispute resolution conference (also known as “triage”). They do not go to arbitration.
3. Article 7.1(c) emphasizes that disciplinary disputes are subject to Article 8.
4. Several contract articles are expressly precluded from arbitration:
 - a. Article 9 (Out of Title) (see 9.2(a) grievances processed under 7.1 (b)) [NOTE: There is a special form for out-of-title grievances. Back pay goes back 15 days from when the out-of-title grievance is filed.]
 - b. Article 10.6 (Counseling) (Appendix C) processed under 7.1(b);
 - c. Article 22 (Safety) (See 22.5 grievances processed under 7.1(b));
 - d. Article 24 (Seniority) (See 24.3 - job and shift assignment grievances are processed up to Step 3);
 - e. Article 25 (Labor Management) disputes growing out of implementation of MOU's can be initiated at Step 3 of the process, but the terms of an MOU cannot be arbitrated (Article 25.4);
 - f. Article 25.6 (Quality of Work Life) not subject to Article 7; and
 - g. Article 3 (Non-Discrimination) Article 3 grievances concerning discriminatory application of contract should be tied to an arbitrable section of the CBA in order to get to arbitration. One arbitrator has held that the failure to connect Article 3.1 with an “*arbitrable*” provision of the CBA defeats the arbitrability of the grievance.

C. Grievance Processing

1. Pre-Grievance -- Article 7.2 encourages attempts at informal resolution before a formal grievance is filed. While informal efforts to resolve a dispute are good, the time limits for filing do not stop running while you are negotiating, absent a written extension of time.
2. Key to success -- ascertain from the very beginning appropriate documentation and obtain copies.

For example, in a Workers' Compensation medical documentation case (i.e. employee was denied contractual Workers' Compensation benefits under Article 14.9 due to alleged non-conforming or untimely medical documentation), you should have:

- a copy of the medical document submitted;
- a receipt from your employer showing the note was submitted (or a date and time-stamped copy);
- copies of any correspondence from your employer regarding acceptance or denial of the medical note;
- copies of any Workers' Compensation decisions and C-8 forms;
- copies of any correspondence from your employer discussing your payroll status for the period covered by the medical note;
- copies of your time and attendance record for that period (in DOCCS referred to as a "1205");
- copies of the relevant form filled out by the supervisor when you called in to work (where applicable) (in DOCCS referred to as a "1202"); and
- all other relevant documentation.

For example, for the denial of overtime, get copies of:

- The voluntary overtime book;
- The charts showing who was hired;
- Local labor/management agreements regarding distribution of overtime (if any); and

- Seniority list (if seniority is used at the facility).

3. Step 1

- a. may be filed by any unit employee or the union with the facility, institution, division or regional head;
- b. must be in writing (see attached form). Fill out the form and cite all relevant articles you believe may have been violated;
- c. must be presented to facility head within **20 calendar days** of the date when employee first knew of act or omission being grieved. **Any time limit extension must be in writing;**
- d. management must meet with union/employee within ten (10) days;
- e. management must issue a written decision within ten (10) days of the meeting;
- f. if management ignores these time limits, the union can move grievance to Step 2;
- g. NYSCOPBA representative at Step 1 will be the sector grievance coordinator or chief sector steward. They can seek advice or assistance from the Business Agent or Vice-President, when necessary or appropriate.

(1) Step 1 settlements are not precedential at any other facility (See Article 7.4(b)).

4. Step 2

- a. Step 2 grievances may be filed within 15 calendar days from receipt of the Step 1 decision.
- b. The Step 2 appeal should contain description of relevant facts and refer to all sections of Agreement which union claims are violated.
- c. The NYSCOPBA Business Agent or Vice President will screen and send proposed Step 2s to the NYSCOPBA grievance department for further review and filing.
- d. The Grievant, Sector Grievance Steward or Chief Sector Steward and Business Agent or Vice President should present the Step 2 grievance.

- f. The Department or Agency must meet with union/grievant within ten calendar days, and render a decision within 10 calendar days; if they fail to do so, grievances can be moved to the next step.

5. Step 3

- a. Within 60 calendar days of receipt of Step 2 decision, grievance can be processed to Step 3 by filing a grievance appeal with GOER.
- b. The NYSCOPBA grievance department files cases to Step 3 if the grievance has been considered to have merit or if the grievance was approved for appeal by the grievance/legal committee.
- c. Step 3 appeals can be heard in several ways:
 - (1) Expedited decision for cases going to arbitration stage can be conferenced with NYSCOPBA sector by phone with NYSCOPBA grievance department and GOER;
 - (2) On site review – NYSCOPBA/GOER may schedule a meeting at the facility;
 - (3) Safety grievances -- referred to Safety & Health Committee for review. Then they can go to conference phase of Alternative Dispute Resolution Process (ADR).
 - (4) The parties can agree to put a grievance on hold for further investigation.

6. Step 4

- a. Within 60 calendar days after the union receives Step 3 decision, the union can file for arbitration by serving demand on GOER and Master Arbitrator.
- b. Following this demand, NYSCOPBA and GOER meet with the Master Arbitrator for a resolution conference to settle or narrow issues and stipulate to facts. This conference is often referred to as “triage”. The grievant may be asked to participate by telephone in triage. Prior to triage, the grievant will be contacted by NYSCOPBA’s counsel to discuss the case.
- c. If the case is not resolved, either party can seek expedited arbitration — a one day hearing, without

briefs (flexible). The arbitrator renders decision within seven days — such decisions are non-precedential unless the parties agree otherwise. The arbitration is handled by NYSCOPBA's counsel.

d. Full (traditional) arbitration

(1) At the resolution conference, if parties mutually agree, the case can be submitted to full arbitration for a precedential decision. If they cannot agree, the Master Arbitrator decides whether the case should go to the full arbitration.

(2) A decision is *generally* rendered within 30 days of completion of hearing and brief. This is not a strict deadline for the arbitrator.

(3) All arbitrations are handled by NYSCOPBA counsel.

7. Miscellaneous

a. Article 7.3(a) requires the employer to release union representatives from normal duties for grievance investigation and processing during the employee's normal work hours. There should be no loss of pay or accruals for such investigation and processing of grievances (does not provide for overtime - see 7.4(d)).

b. The employer, on written request of the union at least 48 hours in advance, should schedule shift assignments so grievance meetings fall within union representatives' regular working hours.

V. Duty of Fair Representation

1. This is one of the most important issues for union representatives in grievance processing.

2. What is the duty?

a. Because the union is the exclusive representative of all unit employees for all terms and conditions of employment, the union must represent each bargaining unit employee:

(1) without hostility or discrimination;

(2) in good faith; and

- (3) without arbitrariness or gross negligence.
- b. Hostility and Discrimination
- (1) A union cannot decline a member's grievance because of a unit member's:
 - (a) race, religion, creed, color, sex, age, disability, national origin, marital status, or political association;
 - (b) internal union politics;
 - (c) the employee's refusal to join union; or
 - (d) personal animosity toward the member.
- c. Good Faith
- (1) The union must deal with all unit members fairly and honestly.
 - (2) The union must deal with members on the merits of the issue. It can decline a member's grievance based on a good faith evaluation of merit, or on the interests of membership as a whole.
- d. Gross Negligence, Arbitrariness -- The union's duty of fair representation may be breached by:
- (1) a failure to properly investigate a potential grievance;
- or
- (2) a failure to follow time limits.
 - (a) Time limits are spelled out in the CBA. The failure to follow the limits may be fatal to a grievance. VERY IMPORTANT!
 - (b) Extensions must be in writing (Article 7.4 (a)).

3. Union Liability for Breach
 - a. The union can be sued by a unit member for breach of duty of fair representation, and can be liable for damages and other relief.
4. Personal Liability For Breach
 - a. Individual union representatives and officials are not personally liable for damages for a breach of the duty of fair representation. The duty of fair representation, rather, is held by the union. (See *Duane Reade Inc. v. Local 338 Retail, Wholesale, Department Store Union, UFCW, AFL-CIO, et al.*, 6 Misc. 3d 790 (New York County 2004).)
 - b. No causes of action against individual union officers are sustainable where their acts occurred within the scope of their activities as union representatives because union officers and employees are not individually liable to third parties for acts performed as representatives of the union. (*Butler v. McCarty*, 35 PERB 7506 (2002) citing, *Covello v. Depository Trust Co. Local 153*, 88 F.Supp.2d 59, 61 (E.D.N.Y. 2000).

Grievance Handling Golden Rules

- A. Communicate: Make sure the grievant, the sector grievance steward or chief sector steward, the Vice-President or Business Agent, and NYSCOPBA grievance coordinator knows what is going on with a grievance. This is essential to ensure that the union's contract enforcement efforts are consistent and coordinated. Promptly return all phone calls.
- B. Investigate: Make sure grievances are based on good facts. If several members are involved, talk to all of them, even if some are hostile or against the grievance. Obtain any relevant documents. It will be hard to make your case without facts, and you will look foolish to management if you have your facts wrong. Keep the NYSCOPBA Vice President or Business Agent involved in the investigation process — and ask for help if you need it.
- C. Shoot Straight: Tell the members the truth. They have a right to know what the union is doing with their grievance and why. Deal with management representatives with the same level of honesty and respect as you expect in return. You will be dealing with them on a regular basis.
- D. Watch Time Limits: A missed time limit can kill a member's grievance. Time that you spend trying to resolve a grievance does not stop or pause the time for filing. If you are trying to resolve the

grievance amicably, just give management a warning that you are filing to preserve time limits but are still looking to resolve it amicably.

E. Decide Who's On First: When you present a grievance to management, make sure:

1. you and the grievant agree on the union's position and the facts;
2. decide who will speak to management on what issue;
3. discuss potential settlements beforehand;
4. if problems come up, ask — caucus — don't let management divide and conquer at the grievance presentation.

F. Don't Just Say No: Sometimes a member will have a legitimate gripe and will want to file a grievance, even though the grievance is a loser.

1. Sometimes you'll decide to file if there is no other good option — but be honest about the prospects of success.
2. It is usually better to explain why a grievance is not the best way to go.
3. You should consider alternative ways to deal with legitimate gripes that cannot be grieved, such as:
 - (a) legal (Taylor Law, civil service appeal, lawsuit);
 - (b) public relations — internal press, external press;
 - (c) labor/management;
 - (d) legislative agenda; or
 - (e) negotiations.

Grievance Training Packet Table of Contents

1. Guidelines for investigating and Writing Grievances
2. What Makes A “Good” Grievance
3. Documentation Can Make or Break a Grievance
4. Release Time for Investigating and Processing Grievances
5. Article 7 Contract Grievance Form
6. Examples of Good Grievances
7. Example of “Not so Good” Grievance
8. Contractual Aspects of Discrimination and Harassment Claims
9. Article 9 Out of Title Grievance Information and Form
10. Grievance Procedure Summary
11. Automatic Progression of Step 1 Grievances
12. Grievance Review Policy / Grievance Legal Appeal Procedure

What Makes A "Good" Grievance

A grievance is a legal document which alleges a breach of contract by an employer. It is imperative that the writer of a grievance treat the grievance with the same respect as any other LEGAL instrument. The following are some of the key components of a "good" grievance.

THE CHARGES

It is extremely important to list the correct charges on a grievance. Make absolutely sure the Articles of the Contract that are cited are appropriate for the incident described. Don't try to put a square peg in a round hole. If an Article doesn't fit the incident, don't cite it. If you're not sure, seek advice from more experienced officials. Spend time on research in order to file an accurate grievance

THE FACTS

Describe the incident in such a fashion that a person who has never been in your facility will be able to visualize the events leading up to and during the incident. Describe why the actions described violate the Articles cited in the charges. Stick to the facts and don't use window dressing. **If you refer to documents, such as Labor/Management agreements, medical documentation / receipts, pay stubs etc..., submit a copy of those documents with the grievance.** This is valuable evidence to be considered by the hearing officers. It is too late to run around and try and obtain this documentation when a grievance reaches Step 2 or Step 3. Do your homework before filing the grievance.

THE TRUTH

This is basic common sense. If you get caught exaggerating and/or lying on any part of the grievance, you might as well go home – it's all over!

TIMELINESS

Know the time limits in Article 7 and use them to your advantage. Do your research, get the supporting documentation and write a complete presentation, but do not exceed your time limits. **You have 20 calendar days from the date of the occurrence to file your grievance.** Also, if you lose at Step 1, immediately forward the grievance , the step 1 response and all supporting documentation to the NYSCOPBA Grievance Department so it may be appealed to step 2 in a timely manner. Please contact your Vice President or Business Agent for your regions method of getting the grievance to NYSCOPBA.

Guidelines for Investigating and Writing Grievances

The hallmark of the competent Law Enforcement Officer is the ability to record his or her statement of events in a clean, concise and readily understandable manner. This skill should be employed when writing grievances as well. Grievance reports are the spark that fires the other components of the grievance process into action. It invokes due process of the contract and all New York State laws. Accordingly, it should not be approached in a lax or haphazard manner.

The grievance report should be professional, clear, concise and perfectly understandable. Consequently, when you sign your name on the bottom of your grievance, you tell every person who reads it the type of person you are and the type of organization you represent. An incoherent grievance leaves the reader wondering, "What is he/she trying to tell me?".

Confused, vague or ambiguous grievances result from a failure to think through the facts and circumstances, which will ultimately make up the body of your grievance. The desired result will be lost if you cannot or will not take the time to document the grievance in a way that is clear and understandable.

Think through each portion of your grievance from beginning to end....then write. This will eliminate the need for future "translation". Strive for coherence. "Coherence" is the quality of logic and order. If the grievance lacks a logical sequence... if the events are recorded out of logical order... the reader will have the difficult, if not impossible, chore of figuring out what actually took place.

The practice of outlining a grievance before writing it invariably strengthens your report writing. It is a way to organize the information in your possession before beginning to write. You will get results by putting effort into your report and back it up with documentation: directives, contracts, NY State laws, etc. Explain how they have been violated.

Subjective writing expresses the writer's personal feelings or emotions, opinions, biases or prejudices, and does so generally without regard to verifiable facts, contractual arguments (contract) and evidence.

Objective writing records the facts and circumstances without reference to the writers personal feelings concerning the event, without emotion, and most importantly, without any implication of bias or prejudice.

Each paragraph should be limited to one idea. That central statement should either be elaborated in the beginning of the paragraph, if not the first sentence itself. Clarity and unity of thought is then achieved by relating all other details of the paragraph to the central statement.

These are the questions to ask yourself about your grievance report:

"Does this make sense? Does it report what actually happened? Is it coherent? Will someone else understand this? Does this report adequately or recreate the scene? Is it capable of being misunderstood?"

Double-check the contents of the grievance with another officer or grievance coordinator.

If you follow these guidelines, the result will be a report which is more consistent, more detailed, and much more effective....a report which displays a degree of professionalism.

Updated August 15, 2013

Documentation Can Make or Break a Grievance

Too often, the strongest written grievances suffer the most disappointing losses due to the simple fact that the documentation needed to support the claims of the grievance is not provided or included with the grievance. Labor Relations, GOER and arbitrators view undocumented grievances as unsubstantiated claims- denying them nearly 100% of the time.

The burden of proof in the grievance process lies with the grievant and the Union, thus any claim that is made in a grievance should be able to be backed up with some form of documentation. When the Union can illustrate their claim in black and white, the employer must refute the grievant's claim with equal or greater compelling proof to support their position.

For example, simply attaching a copy of a time card or pay check to a grievance can bolster an unpaid overtime claim. Similarly, making a claim that management violated a labor management agreement means nothing, unless a copy of said labor management is included with the grievance.

Documentation establishing correspondence between management and the grievant or the Union is the most necessary and often the most omitted documentation. Likewise, when a member or the Union makes a request of management to take action on an issue, it should be put in writing, including a request for a written response from management.

Written correspondence serves three purposes: 1. It can show that the Union and the grievant have attempted to resolve an issue prior to initiating the grievance. 2. It can give insight to management's thought process regarding an issue, which may assist the Union in developing a game plan for refuting management's position. 3. It can establish management's failure or unwillingness to work with the Union to resolve an issue. This is particularly helpful as the grievances progresses through the steps.

Lastly, but of extreme importance, **the grievant and Union must be vigilant in their effort to make sure that the appropriate documentation accompanies the grievance through each step of the process.** We must be our own advocates and ensure that we maximize every opportunity to win each grievance. Do your part by making sure the necessary documentation is provided.

issue presented and shall confine the decision solely to the application and interpretation of the Agreement.

All fees and expenses of the arbitration shall be divided equally between the parties except that each party shall bear the cost of preparing and presenting its own case. Cost for the cancellation of a hearing date shall be borne by the party seeking cancellation.

7.3 Representation

(a) The Employer shall recognize the following grievance representatives at each step of the grievance procedure and shall release such representatives from normal duties to process grievances and conduct necessary relevant investigations providing that such absence from work will not interfere with proper conduct of governmental functions: steward and chief sector steward.

On the Union's prior written request at least 48 hours in advance, the Employer will make every effort to reschedule shift assignments so that meetings fall during working hours of Union representatives.

The Union shall furnish the Employer with a list of all employee representatives, Union Vice Presidents and Union staff authorized to represent the Union in the grievance process pursuant to this Article 60 days from the date of execution of the Agreement.

(b) Statewide elected union officers and Union staff may be present at each step of the grievance procedure.

7.4 General Provisions

(a) As used in this Article, all references to days shall mean calendar days. All of the time limits contained in this Article may be extended by mutual agreement of the parties and shall be confirmed in writing.

(b) Grievances resolved at Step 1 shall not constitute a precedent for any other facility, institution, division, or region, or at Step 2 for any other agency unless a specific

GRIEVANCE FORM

(Please Type or Print)



Revised: March 1, 2003

LOCAL Grievance Number: _____

Facility (or Agency): Example Correctional Facility

Aggrieved Employee: John Smith

LOCAL Union Rep: John Doe

DO NOT WRITE IN THIS BOX
NYSOPBA Grievance Number: CON

Phone Number/ext. On File

Date Submitted: 1/3/18

Date of Occurrence: 1/1/18

Contract Article Violation(s): Article 15

STATEMENT OF FACTS: On January 1, 2018, 3 officers were hired to work overtime on the 3-11 shift.

Officer John Smith appeared 2nd on the overtime list (see attached), but was skipped and not given the opportunity to work overtime. Officer Jones (1), Officer Johnson (3) and Officer Williams (4) were given the opportunity to work overtime on the 3-11 shift on January 1, 2018.

REMEDY SOUGHT: Officer John Smith be rescheduled for overtime work the next time comparable overtime work is required.

Aggrieved Employee's Signature: John Smith

Example Correctional Facility CO Volunteer OT List

January 1, 2018

- | | |
|----------------|-------|
| 1. E. Jones | Hired |
| 2. J. Smith | |
| 3. O. Johnson | Hired |
| 4. T. Williams | Hired |

ARTICLE 15

Overtime, Recall and Scheduling

Certain terms of this Article apply only to employees who are ineligible for Interest Arbitration pursuant to Civil Service Law Section 209(4) on the date of the execution of this Agreement, indicated by (Interest Arbitration ineligible employees only).

15.1 Overtime

(a) Overtime eligible employees shall receive overtime compensation for authorized time worked beyond 40 hours in the scheduled workweek consistent with applicable law and the overtime compensation rules and regulations of the Director of the Budget.

Overtime work shall be offered to employees on the basis of seniority and shall be equitably distributed among employees who normally perform such work. Each employee shall be selected in turn according to his place on the seniority list by rotation provided, however, that the employee whose turn it is to work possesses the qualifications and ability to perform the work required.

(b) An employee requesting to be skipped when it becomes his turn to work overtime shall not be rescheduled for overtime work until his name is reached again in orderly sequence and an appropriate notation shall be made in the overtime roster.

(c) In the event no employee wishes to perform the required overtime work, the Employer shall by inverse order of this seniority list assign the necessary employees required to perform the work in question.

(d) The Union recognizes that work in progress shall be completed by the employee performing the work at the time the determination was made that overtime was necessary.

(e) An overtime roster shall be available for inspection by representatives of the Union at each institution or facility.

(f) If an employee is skipped or denied an opportunity to work overtime in violation of this Agreement, he shall be rescheduled for overtime work the next time overtime work is required, in accordance with paragraph 15.1(a) above. However, at such skipped or denied employee's option he may await the next available comparable shift and work assignment. Instances of repeated occurrences shall be brought to the attention of management at the Step 1 level of the grievance procedure.

(g) Time during which an employee is excused from work because of vacation, holidays, personal leave, sick leave at full pay, compensatory time off or other leave at full pay shall be considered as time worked for the purpose of computing overtime.

(h) Training programs conducted during other than regular working hours shall be scheduled for a minimum two-hour period.

(i) Nothing in paragraphs 15.1(a), 15.1(b), and 15.1(c) above shall prevent the establishment of mutually agreed to local arrangements regarding the method by which overtime is offered to employees.

15.2 Recall

Any employee who is recalled to work unscheduled overtime including court appearances after having completed his scheduled work period and left the facility grounds shall be guaranteed a minimum of one-half day's overtime compensation. If an employee lives on the facility grounds and is recalled from their residence to work unscheduled overtime including court appearances after having completed his/her scheduled work period, he/she shall be guaranteed a minimum of one-half day's overtime compensation. Employees called back as a result of riot, prison break, fire or escape and not put to work shall be guaranteed one-quarter day's overtime compensation.

GRIEVANCE FORM

(Please Type or Print)



Revised: March 1, 2003

LOCAL Grievance Number: _____

Facility (or Agency): Example Correctional Facility

Aggrieved Employee: John Smith

LOCAL Union Rep: John Doe

DO NOT WRITE IN THIS BOX
NYSCOPBA Grievance Number: CON

Phone Number/ext. On File

Date Submitted: January 5, 2018 Date of Occurrence: 12-21-17 - Ongoing

Contract Article Violation(s): Article 15, Article 18

STATEMENT OF FACTS: On December 4 2017, Officer John Smith was hired for Overtime and worked the full 3-11 shift in A Dorm. When I received my paycheck dated December 21, 2017, I did not receive payment for the Overtime worked on December 4, 2017. When I spoke to the payroll clerk, Jackie, she told me that I should have received the overtime pay, but that it may not show up until the January 4, 2018 paycheck. When I received the January 4, 2018, paycheck, the overtime was not included. When I talked to Jackie again, she told me to see if it was in the next paycheck dated January 18, 2018.

REMEDY SOUGHT: Officer John Smith be made whole for overtime worked on December 4, 2018 and for overtime payments to be made in a timely manner per the contract.

Aggrieved Employee's Signature: John Smith

To: Supt. Shallremain Nameless, Example Correctional Facility

From: John Doe, NYSCOPBA Rep

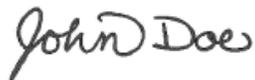
Re: Agreement to Extend filing time frame of grievance for non-payment of OT
for CO John Smith

Date: December 24, 2017

Sir,

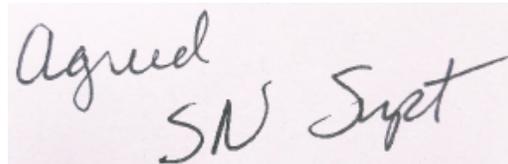
Per our conversation, and per Article 7.4(a) of the CBA, NYSCOPBA and the Administration of Example Correctional facility, agree to extend the time limit to file this grievance to January 10, 2018, to allow for possible resolution of the grievance.

Sincerely,

A handwritten signature in black ink that reads "John Doe". The letters are cursive and slightly slanted.

John Doe

NYSCOPBA Representative

A handwritten signature in black ink on a light-colored rectangular background. The text reads "Agreed" on the top line, "SN" on the middle line, and "Supt" on the bottom line. The handwriting is cursive.

NAME John Smith

PAY PERIOD 11/23/17-12/6/17

NEW YORK STATE DEPT. OF CORR.

THURS	FRI	SAT	SUN	MON	TUE	WED
30 - 14:42	1-14:35	2- 14:37		4-14:40	5-14:41	6- 14:36
30-23:03	1-23:02	2- 23:07		4 - 23:05	5- 23:01	6- 23.02
			RDO	RDO		
11/30/17	12/1/17	12/2/17	12/3/17	12/4/17	12/5/17	12/6/17
1 st DAY	2 nd DAY	3 rd DAY	4 th DAY	5 th DAY	6 th DAY	7 th DAY

TOTAL HOURS SHOWN IS CORRECT

EMP. 516

SUPV. 516

OCF #1652

Thomas P. DiNapoli State Comptroller		John Smith		Total Gross Fed Taxable Gross	
				Current YTD	3,422.25 2,988.38
Advice # 00701510 Advice Date 12/21/2017	Pay Start Date 11/23/17 Pay End Date 12/6/17	Negotiating Unit 01 Retirement System ERS	Net Pay 1,756.25		
Department ID 10070	NYS EEMPLID		Pay Rate		
EARNINGS			TAX DATA		
Current Hrs/Days Earnings		YTD Hrs/Days Earnings	Federal	State	NYC Yonkers
Regular Pay Salary Employee Expanded Duty Pay BU01 Location Pay Pre Shift Briefing Final SSU 01 DRP Repayment			Tax Status M	M	
			Allowances 0	0	
			Add. Amt.		
			TAXES		
				Current	YTD
			Fed Withholding	362.49	8,518.01
			Medicare	46.59	1,080.31
			Social Security	199.23	4,619.28
			NY Withholding	160.02	3,758.14
BEFORE TAX DEDUCTIONS		Current YTD	AFTER TAX DEDUCTIONS		
Deferred Comp 224.93			Deferred Comp		
Regular Before Tax Health 208.92			ERS Retirement After Tax		
			NYSCOPBA		
			NYSCOPBA Short Term Disability		
			NYSCOPBA Term Life		
			NYSCOPBA Accidental Death		
			Metropolitan Property/Casualty		
			Norvst Fin Serv Critic Illness		
			ERS Loans		

December 21, 2017

Advice No. 00701510

Deposited in the Account(s) of John Smith

Direct Deposit Distribution		Account Number(s) not displayed to protect your privacy
Transit #	Account Type	Deposit
	Checking	225.00
	Checking	1,531.25
Total		1,756.25

NON-NEGOTIABLE

NET DISTRIBUTIONS	
Advice # 00701510	1,756.25
Check #	
Total	1,756.25

Thomas P. DiNapoli State Comptroller	John Smith		Total Gross		Fed Taxable Gross	
			Current	3,422.23	2,988.38	
Advice # 00701510	Pay Start Date 12/7/2017	Negotiating Unit 01		Net Pay 1,756.25		
Advice Date 01/4/2018	Pay End Date 12/20/2017	Retirement System ERS				
Department ID 10070	NYS EEMPLID			Pay Rate		
EARNINGS				TAX DATA		
Current		YTD		Federal	State	NYC
Hrs/Days	Earnings	Hrs/Days	Earnings			
Regular Pay Salary Employee				Tax Status	M	M
Expanded Duty Pay BU01				Allowances	0	0
Location Pay				Addl. Amt.		
Pre Shift Briefing				TAXES		
Final SSU 01 DRP Repayment					Current	YTD
				Fed Withholding	362.49	8,518.01
				Medicare	46.59	1,080.31
				Social Security	199.23	4,619.28
				NY Withholding	160.02	3,758.14
BEFORE TAX DEDUCTIONS				AFTER TAX DEDUCTIONS		
Current		YTD		Current		YTD
Deferred Comp	224.93			Deferred Comp		
Regular Before Tax Health	208.92			ERS Retirement After Tax		
				NYSCOPBA		
				NYSCOPBA Short Term Disability		
				NYSCOPBA Term Life		
				NYSCOPBA Accidental Death		
				Metropolitan Property/Casualty		
				Norvst Fin Serv Critic Illness		
				ERS Loans		

January 4, 2018

Advice No. 00701510

Deposited in the Account(s) of John Smith

Direct Deposit Distribution Account Number(s) not displayed to protect your privacy		
Transit #	Account Type	Deposit
	Checking	225.00
	Checking	1,531.25
Total		1,756.25

NON-NEGOTIABLE

NET DISTRIBUTIONS	
Advice # 00701510	1,756.25
Check #	
Total	1,756.25

ARTICLE 15

Overtime, Recall and Scheduling

Certain terms of this Article apply only to employees who are ineligible for Interest Arbitration pursuant to Civil Service Law Section 209(4) on the date of the execution of this Agreement, indicated by (Interest Arbitration ineligible employees only).

15.1 Overtime

(a) Overtime eligible employees shall receive overtime compensation for authorized time worked beyond 40 hours in the scheduled workweek consistent with applicable law and the overtime compensation rules and regulations of the Director of the Budget.

Overtime work shall be offered to employees on the basis of seniority and shall be equitably distributed among employees who normally perform such work. Each employee shall be selected in turn according to his place on the seniority list by rotation provided, however, that the employee whose turn it is to work possesses the qualifications and ability to perform the work required.

(b) An employee requesting to be skipped when it becomes his turn to work overtime shall not be rescheduled for overtime work until his name is reached again in orderly sequence and an appropriate notation shall be made in the overtime roster.

(c) In the event no employee wishes to perform the required overtime work, the Employer shall by inverse order of this seniority list assign the necessary employees required to perform the work in question.

(d) The Union recognizes that work in progress shall be completed by the employee performing the work at the time the determination was made that overtime was necessary.

(e) An overtime roster shall be available for inspection by representatives of the Union at each institution or facility.

(f) If an employee is skipped or denied an opportunity to work overtime in violation of this Agreement, he shall be rescheduled for overtime work the next time overtime work is required, in accordance with paragraph 15.1(a) above. However, at such skipped or denied employee's option he may await the next available comparable shift and work assignment. Instances of repeated occurrences shall be brought to the attention of management at the Step 1 level of the grievance procedure.

(g) Time during which an employee is excused from work because of vacation, holidays, personal leave, sick leave at full pay, compensatory time off or other leave at full pay shall be considered as time worked for the purpose of computing overtime.

(h) Training programs conducted during other than regular working hours shall be scheduled for a minimum two-hour period.

(i) Nothing in paragraphs 15.1(a), 15.1(b), and 15.1(c) above shall prevent the establishment of mutually agreed to local arrangements regarding the method by which overtime is offered to employees.

15.2 Recall

Any employee who is recalled to work unscheduled overtime including court appearances after having completed his scheduled work period and left the facility grounds shall be guaranteed a minimum of one-half day's overtime compensation. If an employee lives on the facility grounds and is recalled from their residence to work unscheduled overtime including court appearances after having completed his/her scheduled work period, he/she shall be guaranteed a minimum of one-half day's overtime compensation. Employees called back as a result of riot, prison break, fire or escape and not put to work shall be guaranteed one-quarter day's overtime compensation.

ARTICLE 18

Payroll Computation

18.1 The Employer shall calculate employees' salary payments on an appropriate ten working-day basis.

18.2 The Employer agrees that paychecks issued to employees will be delivered no later than Thursday following the end of the next succeeding payroll period.

When employees leave State service, their final salary check shall be issued at the end of the payroll period next following the payroll period in which their service is discontinued. This final salary check shall be paid at the employee's then-current salary rate.

18.3 Overtime and holiday pay authorized to be compensated for in cash shall be paid to employees by the close of the second biweekly payroll period following the payroll period during which it was earned.

GRIEVANCE FORM

(Please Type or Print)



Revised: March 1, 2003

LOCAL Grievance Number: Bad Grievance 101

Facility (or Agency): Example Correctional Facility

Aggrieved Employee: John Smith

LOCAL Union Rep: John Doe

DO NOT WRITE IN THIS BOX
NYSCOPBA Grievance Number: CON

Phone Number/ext. On File

Date Submitted: 1/5/18

Date of Occurrence: 1/5/18

Contract Article Violation(s): Preamble, BOR, Articles 3, 8, 22, 27 Directive 4960 Workplace Violence

STATEMENT OF FACTS: On January 5, 2018, I, CO Smith was approached by Sgt. Wannabe in an aggressive and very mean manor who gave me an order that I was assigned to the S-Blk for the day for training because I needed to get better at doing my rounds. I do my rounds the same as Officer Busybody yet Sgt Wannabe never sends Busybody for training. I am being discriminated against. There is a long history of this singling out, unprofessional behavior and harassment from Sgt Wannabe toward me, and I feel unsafe working in the same area or having Sgt. Wannabe as my supervisor. I also feel that Sgt Wannabe is retaliating against me, and treats me in a threatening manner. This is unfair discipline and the Department is not following directive 4960 Workplace Violence.

REMEDY SOUGHT: Sgt Wannabe should receive 12 wks suspension, must attend Anger Management classes, Drug and Alcohol testing/Rehab, De-escalation training, Meditation techniques, Employee Management training, Mental Health Referral, Supervisor Training, Assistance through EAP, Behavior Risk Solutions training. Sgt Wannabe should be terminated.

Aggrieved Employee's Signature: John Smith

Why this is not a good grievance?

1. Contract is between State and Union. Grievances should address issues between Employee and Employer, not between Union members.
2. Harassment is not addressed in contract anywhere.
3. Contractual discrimination must surround differential treatment of an employee under a contractual item based on protected class in article 3 – not based on “he/she doesn’t like me”. An example of a potentially viable discrimination contract grievance is one where an employee is denied an overtime opportunity (article 15) due to gender. These cases, frequently referred to as BFOQ cases, deal with issues related to whether the post or overtime assignment at issue is validly “gender specific.” Additionally, discrimination is dealt with through Diversity Management, EEOC or Division of Human Rights.
4. The grievance exposes 2 other employees/members (Sgt Wannabe and Co Busybody)
5. Unprofessional behavior is to be dealt with by the employee’s supervisor, not through the grievance process.
6. Workplace violence has its own process under Directive 4960. Workplace violence does not fall under Article 22 Safe Working Conditions.
7. Directives are not a law, rule or regulation covered by Article 27.
8. This is not discipline under Article 8.
9. All remedies are unattainable under the contract – Mostly, the grievance process cannot institute discipline on another employee.

Note: Members have the right to file a grievance at step 1 per Article 7 – the Union can’t stop that. Also, filing this type of grievance can serve the purpose of notifying management of the issue in writing and exhausting all avenues to try to resolve such an issue. But the member should still be made aware that the best avenue to address this type of issue is Diversity Management, EEOC or the Division of Human Rights. Also, the Grievant must be made aware that this is a poor grievance and will most likely not be successful, and will eventually be recommended for closure by the NYSCOPBA Grievance Department.

Contractual Aspects of Discrimination and Harassment Claims

Although allegations of discrimination and work-place harassment are often linked, many members incorrectly consider them identical topics. The treatment of these issues is separate and distinct when addressed through the Collective Bargaining Agreement (CBA), and the grievance process. Although it may be difficult to accept that such practices still occur in this day and age, the fact remains that not only does such treatment exist and it negatively affects the entire work-place environment on every level. These unacceptable practices must be addressed; but how?

First we will consider the claim of discrimination. Article 3 (Nondiscrimination) of the contract is very specific that inequitable application of the CBA because of a member's "age, race, creed, color, national origin, sex, disability, marital status and political affiliation..." or union activity is considered discrimination, and a violation of the Contract. The most common example is when the Employer denies a member's rights to a post bid award because of their gender.

An abundance of documentation and a great deal of time and effort is needed to establish differential treatment of a member under Article 3. Also, the Union is often required to prove a diminishment of a member's rights provided in, or outside of the contract, as a direct result of the differential treatment. The Union has been very successful in processing "true" discrimination grievances.

However, members often mistake a claim of work-place harassment as a discriminatory act as outlined in Article 3. Harassment claims are often made in grievances when a member feels that a supervisor has improperly issued a counseling, informal or formal; or when a supervisor appears to "ride" one particular employee more than others. Members usually claim violations of Article 8 (Unjust Discipline) Article 27 (Preservation of Benefits) and Appendix C in these instances.

While these claims may seem discriminatory in nature, they do not satisfy the specific requirements of discriminatory treatment under Article 3. Appendix C establishes that counselings are not considered as disciplinary action against the Employee under Article 8, and therefore do not inherently diminish a member's rights within or outside of the contract. Appendix C only addresses the method by which counselings can be given; in private with an opportunity for the member to provide a rebuttal to counseling memos. It does not address whether or not the counseling itself is appropriately required.

Grievances claiming harassment often seek to exact discipline on another individual, often a supervisor, and even fellow union members. Some remedies seek to demand or invoke an apology from the accused individual. These remedies, although commonly sought, cannot be granted through the grievance process.

Keep in mind that the contract is negotiated between the Union (NYSCOPBA and its members as one unit) and the Employer (DOCCS / New York State and its representatives acting on its behalf). The CBA governs only that discipline which is

administered from the Employer to an Employee, and does not provide remedies demanded by one individual or another. Further, the contract does not provide an avenue through which one member can seek to diminish the rights of another.

Factually, there are no articles in the contract that either address work-place harassment or which provide a remedy for the same. The proper venues to address such claims are through the Diversity Management Office, the Equal Employment Opportunity Commission or the Division of Human Rights Office. It is also suggested that the member notify and discuss these issues with the local Union, Management and the local Employee Assistance Program representative in an attempt to resolve these issues.

Out Of Title Grievance Information

Article 9 claims of out of title work and out of title grievances are handled differently under the CBA compared to Article 7 contractual violation claims. Therefore, it is required that claims of out of title work be filed on the proper designated out of title grievance form, example in this section of the training manual. Historically, grievances submitted on a "regular" Article 7 grievance form have been automatically dismissed as improperly filed.

It is important to understand that the review of these claims are based on duties specific to Civil Service recognized classification standards of a title, and are not merely based on the "that's not in my job description" claim. For that reason, it is recommended that the classification standard of both the title you are in and the title you claim to be doing the work of, are included in the supporting documentation of the grievance.

It is also recommended that the grievant create an itemized list of the duties which they are actually performing, especially those which are specifically relevant to the title which they are claiming the duties belong. You cannot simply state "My supervisor was absent for two months and I was designated as 'acting chief' or 'Captain' and performed all of his duties in his absence." Specific details of the duties performed are required. This list must be presented as supporting documentation to the grievance. Do not limit your list or explanation to the two lines available on the form. Attach additional paperwork as is necessary.

Important Note: NYSCOPBA out of title grievances are processed different than CSEA, PEF and other bargaining unit's out of title grievances, however, most facilities do not realize this and need reminding. NYSCOPBA out of title Grievances still must be submitted locally to the facility and heard. They are then appealed to Step 2 (Agency Level) and should receive an answer. **Unlike other bargaining units, per Article 9, NYSCOPBA out of title grievances are not referred to Civil Service Classification and Compensation until NYSCOPBA appeals the grievance to Step 3.** Often agencies refer the grievances to CS when it is appealed to the agency. This is not the process negotiated in the NYSCOPBA contract and stewards should be vigilant to make sure that agencies follow the NYSCOPBA procedure properly.

Once an out of title grievance is appealed to Step 3, all the information needed to meet the Union's burden of proof must be included in the grievance supporting documentation, and all the information is forwarded to Civil Service Classification and Compensation for their review and recommendation. No Step 3 review with the Governor's Office of Employee Relations is held. CS then makes a recommendation whether or not the grievance should be sustained or denied, and that recommendation is always adopted by GOER.

Out of title grievances cannot be advanced to arbitration. As a final step, it is technically possible to bring these grievances to a "triage" meeting between attorneys from NYSCOPBA and GOER. However, these meetings are informal with no hearing conducted, and no decision issued unless both parties agree. History has shown that GOER will not reverse the findings from Civil Service once they were accepted at Step 3 which inevitably results with the closure of the file without further discussion or hearing.

**NEW YORK STATE / NYSCOPBA
OUT-OF-TITLE WORK GRIEVANCE FORM**

Date Submitted _____

Grievant(s) Name		Social Security Number
Home Address		
Grievant(s) Title		Line Number
Department/Facility	Division/Bureau/Region	Shift
Work Address		
Supervisor's Name and Title		

**STATEMENT OF FACTS
(USE ADDITIONAL SHEETS IF NECESSARY FOR QUESTIONS 1-4)**

1. Reason for Grievance:

- a. Who directed you to perform these tasks, their name and title? _____
- b. What caused this assignment, did someone get sick, go on leave, get reassigned? _____

- c. Were you filling in for your supervisor, if so how often? _____
- d. Were you performing all of the duties of your supervisor at that time? _____
- e. Who supervised you when you performed these tasks (who did you report to)? _____
- f. What title did you feel should normally be assigned these duties? _____
- g. What were the dates of the assignment, number of days or weeks? _____

2. Specific tasks performed which you believe to be out-of-title and approximate percentage of time spent on each: _____

NOTE: If the duties are appropriate to your present job title, an out-of-title work grievance is not applicable, and this grievance form should not be used

3. State the title and grade that you believe are more appropriately assigned these duties: _____

4. If relevant, list your supervisory responsibilities, along with names and titles of staff supervised by you: _____

5. Date(s) of occurrence: _____

6. Remedy sought: Compensation/Monetary Relief Cease and Desist

7. Signature of Aggrieved Employee or Union Officer and Title: _____

STEP 1 – FACILITY/REGIONAL LEVEL REVIEW

Date Grievance Received by Certified Mail	Date Decision Issued
Union File Number	Agency File Number

1. Facility/Regional Level Management Decision: _____

2. Facility/Regional Reviewer: _____

STEP 2 – AGENCY LEVEL REVIEW

Date Grievance Received by Certified Mail	Date Decision Issued
---	----------------------

Agency Decision _____

Agency Reviewer _____

GOVERNOR’S OFFICE OF EMPLOYEE RELATIONS (GOER) REVIEW (STEP 3)

GOER File Number _____

All appeals to GOER must include a legible copy of the grievance form and agency opinion, and specific reasons for disagreement with step 2 decision

Date Grievance Sent by Certified Mail: _____

Signature of Aggrieved Employee or Union Officer: _____

**NEW YORK STATE
OUT-OF-TITLE WORK GRIEVANCE FORM
INSTRUCTIONS**

It is especially important for you to supply as much information as possible so that your grievance will not be delayed by a request for additional information.

You should contact your local grievance representative to assist you in filling out this form and to assist you in determining whether the particular circumstances you are grieving are appropriate to the out-of-title work grievance procedure.

You should state the specific tasks that you performed which you believe to be out of title. These are tasks not contained in the job standard or tasks not normally associated with your title.

Any attachments must be included with the grievance form at each step.

Grievance Procedure Summary: under Article 7 in the contract.

STEP I

- 1.** Employee and/or and or Union files a grievance within 20 calendar days of occurrence. (Unless a written agreement to extend the time frame to file is completed – see attached example)
- 2.** Union and Employee meet with local management meet within 10 calendar days.
- 3.** Local management issues a written decision within 10 calendar days.

STEP II

(From this point forward the Union owns the grievance)

- 1.** Union files appeal to Agency Labor Relations within 15 days.
- 2.** Meeting with Labor Relations and Union within 10 days.
- 3.** Labor Relations issues decision within 10 days.
- 4.** NYSCOPBA evaluates whether or not to forward grievance to next step (see Grievance Appeal Procedure). NYSCOPBA may appeal Step II decision to Governor's Office of Employee Relations within 60 days. (* previous 15 day window extended to 60 days in 2009-2016 contract).

STEP III

- 1.** Step III review meeting scheduled every other week with GOER. (Member receives scheduling letter explaining review procedure. See attached example. Member may participate by phone, upon request to grievance department.)
- 2.** On-site review- (very rare) Meeting at worksite with Union, Management and GOER, usually within 4 months.
- 3.** Health and safety issues may be referred to Health and Safety Committee for review.

4. Out of Title grievances referred to Civil Service Classification and Compensation for review. No Step III Review Meeting held.
5. GOER issues decision or recommends resolution. (No set time frame, however the NYSCOPBA Grievance Department has established a practice of auto-progressing grievances that do not receive a GOER response within 90 days of the Step III review meeting.)
6. NYSCOPBA evaluates whether or not to forward grievance to next step (see Grievance Appeal Procedure). NYSCOPBA may appeal Step III decision to Step IV within 60 days. (* previous 15 day window extended to 60 days per MOU with GOER – see attached example)

STEP IV

1. Appeal to Alternate Dispute Resolution Process or Arbitration may take several paths:
 - a. **Triage** - Discussion between NYSCOPBA and State legal counsel (resolution conference) to determine if grievance can be resolved or if it can be best addressed through Expedited or Full Arbitration. Master Arbitrator is involved in discussion.
 - b. **Expedited Arbitration** – NYSCOPBA and State legal counsel present verbal case summaries (no written briefs) before a Master Arbitrator. Arbitrator renders decision, usually within 7 days. **Expedited Awards are non-precedential unless the parties agree otherwise.**
 - c. **Full Arbitration** – NYSCOPBA and State legal counsel present verbal and written testimony, including written briefs, before a mutually agreed to Arbitrator. Decision is usually issued within 30 days. **Full Arbitration awards are precedential unless otherwise agreed to by the parties or expressly indicated by the arbitrator.**



**New York State Correctional Officers
& Police Benevolent Association, Inc.**

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



To: Roland Larkin, Superintendent Eastern CF

From: Mike Marro, NYSCOPBA Grievance Department

Re: Extension request to file grievance regarding C.O. [REDACTED]
DRP/DRL calculation, monetary and time deductions and credits.

Date: October 10, 2012

Per our phone conversation today, I am currently working to attempt to resolve issues regarding the monetary and leave credit and deduction of Deficit Reduction Leave (DRL) for [REDACTED] under the agreed to DRP program. However, my contact at DOCCS payroll has informed me that she will not be available to address this issue until she returns to work on October 15, 2012. As a result, I am requesting an extension of the 20 day limit to file a grievance at step 1 on this matter to October 31, 2012; in hopes these issues can be resolved prior to the need arising to file said grievance.

I am requesting your cooperation and agreement in this matter and respectfully request a signed written response.

Please feel free to contact me with concern or questions at 518-427-1551, and thank you for your anticipated cooperation in this matter.

Michael A Marro

Approved
[Signature]
Sept
15/9/12



New York State Correctional Officers & Police Benevolent Association



102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org

To: Abbie Ferreira, Assistant Director, GOER
From: Robert Cronin, Grievance Department, NYSCOPBA
Re: Grievances to be heard at Step 3, **December 11, 2017** at 10:00 a.m.
Date: November 28, 2017

The grievances to be heard at Step 3 on the above date are listed below.

TO GRIEVANT: If you wish to participate in the meeting (allowed by telephone only), please call the NYSCOPBA Grievance Department at (518) 427-1551, Extension 259 no later than 4:00 p.m., December 8, 2017 and leave a number where you can be reached on the day of the meeting. Information may be left on my voice mail. If you are on duty at the time, you should be allowed a relief per Article 7.4(d) of the collective bargaining agreement.

<u>Grievant</u>	<u>Facility</u>	<u>NYSCOPBA #</u>	<u>Agency #</u>	<u>Subject</u>
[REDACTED]	Sullivan CF	CON17-0471	L-6-17C	All Health & Safety
[REDACTED]	Riverview CF	CON17-0458	L-1-17C	Miscellaneous Overtime
[REDACTED]	Auburn CF	CON16-0296	N/A	Counseling
[REDACTED]	Auburn CF	CON16-0374	N/A	All Others
[REDACTED]	Auburn CF	CON16-0415	N/A	Miscellaneous Monetary
[REDACTED]	Gowanda CF	CON17-0404	L-3-17C	All Health & Safety
[REDACTED]	Gowanda CF	CON17-0462	L-4-17C	Shift Differential & Location Pay

cc: **Mid-Hudson Region Office**
Northern Region Office
Western Region Office
Sullivan CSS
Riverview CSS
Auburn CSS
Gowanda CSS
Jocelyn Gleason, Health & Safety / WC
File

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE STATE OF NEW YORK

AND

THE NEW YORK STATE CORRECTIONAL OFFICERS AND POLICE BENEVOLENT ASSOCIATION, INC.

(NYSCOPBA)

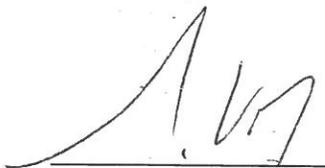
GRIEVANCE PROCEDURE CHANGES

This is to confirm the agreement between the parties regarding Article 7, Grievance Procedure, to assist the parties in the good faith processing and review of grievances.

The parties agreed to make this pilot permanent in the 2011-16 contract but mistakenly only changed the language of Article 7.2(a).

Under the present contract language, specifically Article 7.2(b)(1), the union must make a demand for ADR/Arbitration within 15 days from the day the union receives the Step 3 decision. However, the parties agreed to extend this time period as well, and therefore, those 15 days shall be extended to 60 days.

This shall be the only change made in Article 7 unless otherwise agreed upon by the parties. Once a successor agreement to the 2011-16 contract is reached, the parties agree to memorialize this change in that successor agreement.



Michael N. Volforte Date
Acting General Counsel
For Governor's Office of
Employee Relations, State of New York

10-22-13

Donn Rowe Date
President
For NYSCOPBA

Vincent Blasio Date
Recording Secretary
For NYSCOPBA

Automatic Progression of Step 1 Grievances for Local Stewards

What happens when the Employer doesn't answer the grievance in the time frames under the Contract?

One of the most frequently asked questions we receive from local NYSCOPBA stewards is, "What should I do when the Employer fails to answer a grievance in a timely manner?" Contrary to contractual mythology, the contract does not provide for the Union or the Employee to win a grievance simply because the Employer does not meet to discuss or answer a grievance in time. The correct answer is found in the first paragraph of Article 7.2 and under the Automatic Progression (AP) section as outlined at the very end of Article 7.2 (a) of the Collective Bargaining Agreement (CBA).

Article 7.2 -Upon failure of the Employer to provide a decision within the time limits provided in this Article, the Union may appeal to the next step of the grievance procedure. The grievance will not revert back to the previous step where it was originally untimely unless mutually agreed to by both parties.

Article 7.2(a) - Automatic Progression. If the Employer fails to meet with the Union on a timely basis or render a timely decision, the Union may treat the grievances as having been denied at the level at which the delay occurred and may then appeal the grievance to the next level.

NOTE: It is important to note that time limits may be extended as provided in article 7.4 (a) of the CBA: As used in this Article, all references to days shall mean calendar days. All of the time limits contained in this Article may be extended by mutual agreement of the parties and shall be confirmed in writing.

The steward must understand that the most operative word in this section of the CBA is "**may**", which poses a challenging question to the Union and to the steward - "Do I simply Automatically Progress every grievance that isn't answered on time, or is there a more effective manner to exercise the Union's right to use Automatic Progression?"

Before we can address when the appropriate times to use Automatic Progression are, we must first understand the time limits to submit, meet and discuss the grievance with the Employer, and how long the Employer has to answer step 1 grievances under Article 7.2 the CBA.

STEP I

- Employee and/or and or Union files a grievance within 20 calendar days of occurrence. (Unless a written agreement to extend the time frame to file is completed)

- Union and Employee meet with local management meet within 10 calendar days.
- Local management issues a written decision within 10 calendar days.

The local Steward should analyze each grievance circumstance individually in determining if Automatic Progression is appropriate. For example, if at the step 1 meeting, management advises the local union steward that they are attempting to resolve the issue in the Union's favor but they need a little more time to do so before they can issue the answer, then it would be in the Union's best interest to not Automatically Progress the grievance after it immediately surpasses the time limits for an answer.

However, if it appears that local management has no regard for time limits, and no respect for the grievance process, then it may be in the Union's best interest to Automatically Progress grievances as soon as they become untimely. This would also apply for those local administrations that repeatedly miss meeting time limits with no valid reason.

Of course, the local Steward must also keep in mind that it is extremely important to establish a good working relationship with management and that there may be circumstances when the Union needs additional time to address an issue as well, so the local Union should heavily weigh the need for using automatic progression. Local Stewards should contact their regional NYSCOPBA Business Agent or Vice President if they are unsure how they should handle an Automatic Progression of a grievance.

NYSCOPBA Suggestion: Use memos (*example attached*) to remind the Employer of their time limit obligations, and give them the opportunity to correct the "oversight" before using Automatic Progression. If the Employer fails to correct the oversight, then use the attached Automatic Progression memo to advance the grievance to step 2. These documents become instrumental in establishing the Union's recognition of management's position in the grievance process, and reinforces the Union's desire to work with management in that process.

Do I file a grievance against Management for not answering the grievance?

If the Employer establishes a pattern of disregarding the time limits under the grievance procedure, then a separate Article 7 grievance outlining multiple examples of the Employer failing to meet the time limits is recommended. It is also recommended that all memos attempting to arrange a meeting or to facilitate a response, as well as memos indicating automatic progression be included in that grievance file as supporting documentation.

Grievance Time Frame Reminder to Employer Memo Example

To: Employer Representative

From: NYSCOPBA Local Sector

Re: Grievance Time Limit Reminder

Date:

A grievance for (Employee name) was submitted to and received by the Employer on (Date) citing violations of (Articles Cited) – (Local grievance number assigned if available.) See copy attached. As of the date of this memo:

The Employer has not met with the Employee and the Union in a step 1 meeting within 10 calendar days of the receipt of the grievance as per Article 7.2 of the CBA.

The Employer has failed to render a decision in writing within 10 days from the date of the step 1 meeting (Date) as per Article 7.2.

In the interest of preserving a harmonious working relationship in the grievance procedure process, NYSCOPBA requests that you respond in writing within 10 days indicating when this oversight will be corrected. Thank you.

Automatic Progression Request Memo Example

To: NYSCOPBA Grievance Department

From: NYSCOPBA Local Sector

Re: Request for Automatic Progression of Grievance

Date:

A grievance for (Employee name) was submitted to and received by the Employer on (Date) citing violations of (Articles Cited) – (Local grievance number assigned if available.) See copy attached. As of the date of this memo:

- The Employer has not met with the Employee and the Union in a step 1 meeting within 10 calendar days of the receipt of the grievance as per Article 7.2 of the CBA.

- The Employer has failed to render a decision in writing within 10 days from the date of the step 1 meeting (Date) as per Article 7.2.

The Employer has failed to meet the time limits set forth in Article 7.2 and 7.2(a) of the Collective Bargaining Agreement. Therefore, the Union is treating this grievance as having been denied at step 1, the level at which the delay occurred, and is appealing this grievance to Step 2 under the Automatic Progression portion of Article 7.2 and 7.2(a)4 of the current CBA.



New York State Correctional Officers & Police Benevolent Association

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Grievance/Legal Assistance Committee **GRIEVANCE REVIEW POLICY** (As adopted December 12, 2007)

1. STATEMENT OF POLICY: Article 7 "*Grievance and Arbitration*" of the collective bargaining agreement provides that NYSCOPBA may take an appeal of a grievance that is not satisfactorily resolved. It shall be the policy of the New York State Correctional Officers & Police Benevolent Association, Inc. ("NYSCOPBA") that the determination to take any such appeal shall be made in accordance with the procedures described herein.
2. INITIATION OF GRIEVANCES: NYSCOPBA, or a person or persons represented by NYSCOPBA ("grievant") may submit a grievance to Step 1 as provided by Article 7 of the collective bargaining agreement.
3. GRIEVANCES NOT SATISFACTORILY RESOLVED: A determination by NYSCOPBA that it is not in the best interest of NYSCOPBA to appeal a grievance to the next step in the grievance process is subject to review only as provided by this policy and the procedures specified herein.
4. REQUEST FOR REVIEW OF A DECISION OF NYSCOPBA: If NYSCOPBA determines that a grievance not satisfactorily resolved at Steps 1 or 2 will not be appealed to the next step of the grievance procedure, the grievant or the Sector Steward representing said grievant may request a review of this determination by the Grievance/Legal Assistance Committee established pursuant to Article XI of the NYSCOPBA Constitution. The procedure for this review shall be as follows:
 - a. The grievant will be notified by NYSCOPBA in writing of this determination. A copy of this notice shall also be provided to the Vice-President and the Chief Sector Steward representing the grievant.

Members of the Committee:

Steven Groom (Great Meadow CF); Robert Cronin (Mt. McGregor CF); Todd Masca (Mid-State CF);
Ricky Smith (Rockland Psychiatric Center); John Ward (Bedford CF); Jim Sonko (Fishkill CF)

Committee Chair:

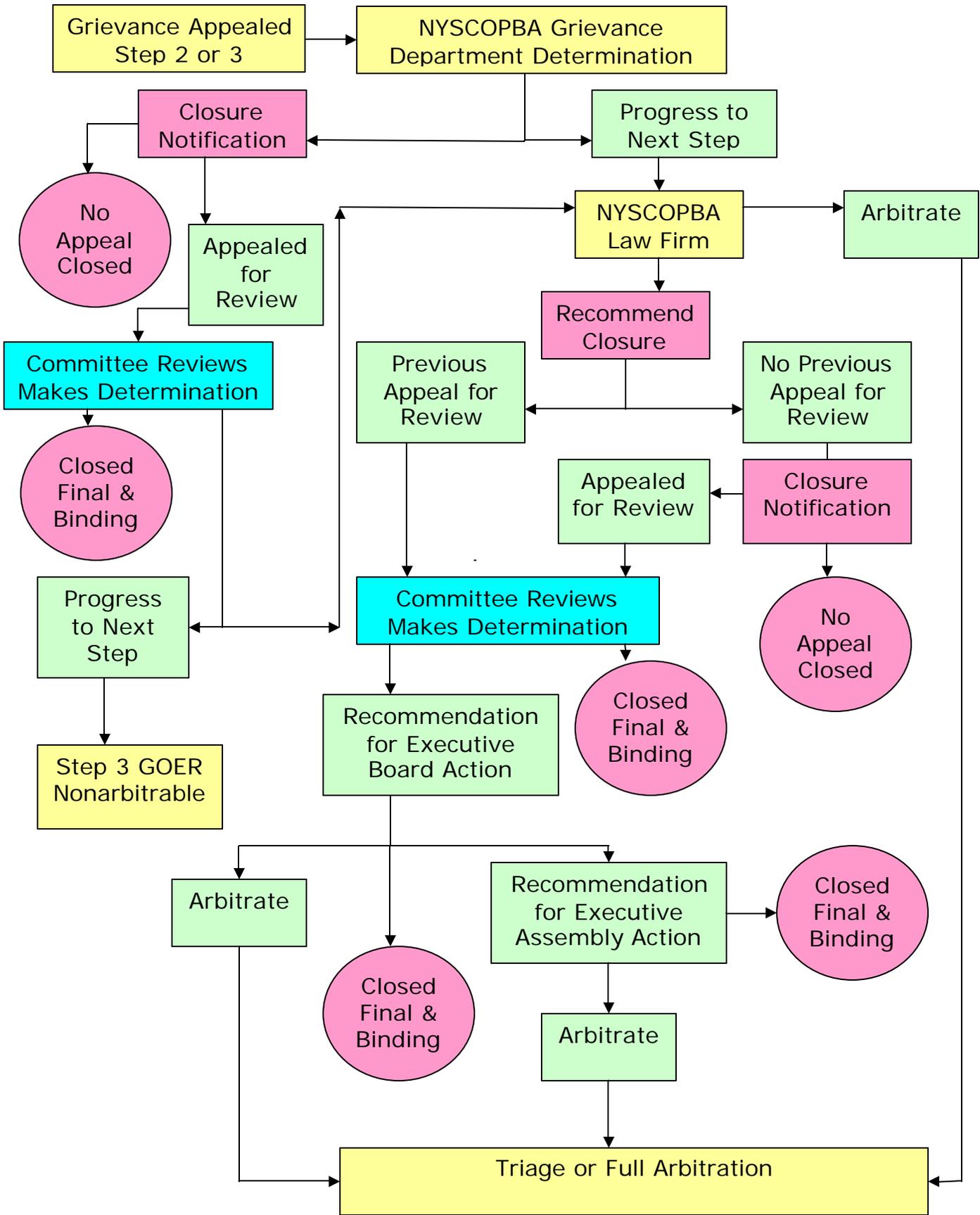
Michael Mazzella (Mid-Hudson Vice President)

- b. The notice to the grievant shall include the reasons why NYSCOPBA determined that the grievance should not be appealed to the next step. This notice may include any information, which supports the decision of NYSCOPBA including past grievance decisions, arbitration decisions, etc.
 - c. The notice to the grievant shall state, "In the event you do not agree with this determination to close this grievance, you may request in writing that this determination be reviewed by the Grievance/Legal Assistance Committee. This request must be made within thirty (30) days following receipt of this notice. Your request for review must include specific relevant additional information that NYSCOPBA did not possess that might have affected the determination to close the grievance. The request for review by the Grievance/Legal Assistance Committee should be sent by email to grievance@nyscopba.org or mailed to 'NYSCOPBA Grievance Department, 102 Hackett Blvd., Albany, NY 12209-1543.' If a written request for review is not received within thirty (30) days, the grievance will be closed."
 - d. The Grievance Department will forward a request for review to the Grievance/Legal Assistance Committee. The committee will review the written submission, and may call witnesses, may consult with legal counsel and/or request additional information from any person possessing information believed to be relevant. NYSCOPBA shall notify the grievant of the date and time when the committee will consider their request for a review. The grievant may participate via a telephone conference call or may appear in person at his or her expense. Their Sector Steward or Vice-President may represent the grievant in this review. In the event a good faith effort has been made to contact the grievant and the grievant cannot be contacted, the Grievance/Legal Assistance Committee may go forward with the review and render a decision thereon.
 - e. The Grievance/Legal Assistance Committee will render a decision within thirty (30) days after the review is considered. The Grievance/Legal Assistance Committee will notify the grievant in writing that either the grievance will be closed or that the grievance will be appealed to the next step. The decision of the Grievance/Legal Assistance Committee will be final and binding and cannot be appealed.
5. GRIEVANCES NOT SATISFACTORILY RESOLVED AT STEP 3: If NYSCOPBA or Legal Counsel designated pursuant to Article XIX of the NYSCOPBA Constitution and Bylaws determines that it is not in

the best interest of NYSCOPBA to pursue a grievance beyond Step 3, the following shall occur:

- a. Only when the Grievance/Legal Assistance Committee has not previously reviewed the grievance as described in section 4 of this policy, the grievant, the Sector Steward and the Vice-President representing the grievant will be provided the opportunity for such review as provided by section 4(a) to section 4(d).
- b. If the Grievance/Legal Assistance Committee agrees with the determination that it is not in the best interest of NYSCOPBA to pursue the grievance beyond Step 3, the grievance will then be closed. This decision will be final and binding and cannot be appealed.
- c. If the Grievance/Legal Assistance Committee does not agree with the determination that it is not in the best interest of NYSCOPBA to appeal the grievance beyond Step 3, the grievance will be submitted to the Executive Board.
- d. The Executive Board shall then decide that the grievance will be pursued beyond Step 3, or the grievance will be closed, or the grievance will be referred to the Executive Assembly. This decision of the Executive Board will be final and binding and cannot be appealed.
- e. The decision of the Executive Board, or of the Executive Assembly if the grievance is referred to them by the Executive Board, that the grievance will be pursued beyond Step 3 or that the grievance will be closed will be final and binding and cannot be appealed.

**Grievance Review Policy & Procedure
Adopted by NYSCOPBA EA 12-12-07**



Points to Remember About Verbal and/or Written Formal Counseling

- Counseling Guidelines and procedures are addressed in Article 10 and Appendix C of the contract.
- Counseling sessions must be conducted in private.
- Union representation must be afforded to an employee whenever more than one supervisor is present during a counseling session.
- Appendix C defines counseling as “not disciplinary”, and therefore cannot be addressed in the grievance procedure under Article 8.
- An employee is not required to sign a counseling memo
- An Employee has the right to file a written response to a counseling memo in his/her personal history folder.
- Successful grievances address violations of the counseling procedure only (not conducted in private and not afforded appropriate Union representation).
- Grievances cannot address the content of counseling or the reason counseling is issued.
- Grievances addressing counseling often cite “harassment” as grounds to have a counseling memo expunged. The claim of harassment is often made through the grievance process; however, factually, there are no articles in the contract that address work place harassment other than discriminatory treatment based on age, race, creed, color, national origin, sex, disability, marital status or political affiliation. The proper venue to address claims of workplace harassment is through the Diversity Management office.
- Grievances addressing counseling cannot not be advanced past the Alternate Dispute Resolution Process (triage) as outlined in Article 7.1 (b). In triage, both parties, Union and the Employer must agree to a resolution. History shows that the Employer will not agree to reverse the previous findings in the grievance process. Moreover, issues addressing counseling cannot be presented to a neutral Arbitrator for his/her consideration.
- As long as an Employee has not received additional counseling or notice of discipline during the time period following the issuance of a counseling memo, a written counseling memo over three years old, and any reference to the counseling, must be removed from the Employee’s personal history folder upon written request from the Employee.

- Removed counseling memos cannot be used as evidence in subsequent disciplinary arbitrations for that employee.
- Written counseling memos cannot include threats of future disciplinary action.
- Employee evaluations can not refer to counseling.

State of New York
EMPLOYEE PERFORMANCE EVALUATION APPEALS FORM
(For Employees in the Security Services Unit)

Appellant's Name _____

Agency _____

Office/Bureau: _____

Item # _____ Title _____

Evaluation
Period: From ____/____/____ To ____/____/____

Name of Supervisor _____

Name of Reviewer _____

Rating Received _____

Date Rating Received ____/____/____

If you wish to appeal your rating, you have 14 calendar days from the date you receive your rating in which to file an appeal at the first step in the process. In most cases, the first step will be an appeal to a Local (facility, region, etc.). Performance Evaluation Appeals Board (STEP 1 below). In agencies where there is no Local Board, the first step will be an appeal to the Agency Level Performance Evaluation Appeals Board (indicated on STEP 2 on the reverse side of this form).

Check one of the following:

I wish to be represented by NYSCOPBA in the appeals process.

I do not wish to be represented in the appeals process.

STEP 1 – LOCAL LEVEL

Instructions to Appellant:

In the space provided below, explain why our rating should be changed to the next higher level. You must cite specific reasons why your work performance should be recognized by a higher rating. NOTE: In the appeal of a rating of "Needs Improvement" or higher, the burden of proving that the rating should be raised is upon the Appellant. In an appeal of a rating of "Unsatisfactory," the burden of proof for sustaining the rating is upon the agency.

REASON FOR APPEAL:

(Attach additional sheets, if necessary.)

Appellant's Signature: _____ Date Submitted: ____/____/____

(For Local Appeals Board Use)

Date Received by Local Appeals Board: ____/____/____

Your performance rating appeal as been reviewed in accordance with prescribed procedures by the Local Performance Evaluation Appeals Board. The Board has Accepted Denied your appeal. As a result of this action, your rating for this evaluation period is _____. A brief summary statement of the Board's decision is attached.

Date Decision Issued: ____/____/____

Signed _____

STEP 2 – AGENCY LEVEL

Instructions to Appellant:

If your performance rating is "Good" or lower and your appeal has been denied by the Local Performance Evaluation Appeals Board, you have 14 calendar days from the date you received the decision of the local board to appeal to your Agency Performance Evaluation Appeals Board.

REASON FOR DISAGREEMENT WITH STEP 1 – LOCAL LEVEL DECISION:

(Attach additional sheets, if necessary.)

Appellant's Signature: _____ Date Submitted: ____/____/____

(For Agency Appeals Board Use)

Date Received by Local Appeals Board: ____/____/____

Your performance rating appeal as been reviewed in accordance with prescribed procedures by the Agency Performance Evaluation Appeals Board. The Board has Accepted Denied your appeal. As a result of this action, your rating for this evaluation period is _____. A brief summary statement of the Board's decision is attached.

Date Decision Issued: ____/____/____

Signed _____

(For the Agency Performance Evaluation Appeals Board)

STEP 3 – SECURITY SERVICES UNIT LEVEL
(For appeals from a rating of "Unsatisfactory" only)

Instructions to Appellant:

If your performance rating is "Unsatisfactory and your appeal has been denied by the Agency Performance Evaluation Appeals Board, you have 14 calendar days from the date you received the decision of the agency board to appeal to the Security Services Unit Appeals Board, c/o Governor's Office of Employee Relations, 12th Floor, Agency Building 2, Empire State Plaza, Albany, New York, 12223.

REASON FOR DISAGREEMENT WITH STEP 2 – AGENCY LEVEL DECISION:

(Attach additional sheets, if necessary.)

Appellant's Signature: _____ Date Submitted: ____/____/____

(For Security Services Unit Appeals Board Use)

Date Received by Security Services Unit Appeals Board: ____/____/____

Your performance rating appeal as been reviewed in accordance with prescribed procedures by the Local Performance Evaluation Appeals Board. The Board has Accepted Denied your appeal. As a result of this action, your rating for this evaluation period is _____. A brief summary statement of the Board's decision is attached.

Date Decision Issued: ____/____/____

Signed _____

(For the Security Services Unit Appeals Board)

STEP 8

After the evaluation process has been completed, give a copy of the evaluation form to the employee, send the original of the form to the local personnel office, and send a copy to the central office. The original will be retained in and become part of the employee's official personnel file.

IV. APPEALS PROCESS

The program which has been developed has been designed to assist supervisors in the conduct of fair and accurate evaluations of employee performance. A face-to-face appraisal interview has been included in the evaluation process to provide for and to enhance communication between supervisors and employees concerning work performance. Provision also has been made on the rating form for employees to comment on any aspect of their job or on their supervisor's assessment of their performance of the job. Nevertheless, there still may be disagreement between an employee and a supervisor concerning the Final Rating which the employee has been assigned. In such an instance, the employee may request a review of the rating by filing an appeal according to the process outlined below. Only Final Ratings are appealable.

A. Levels of Appeal

1. Local Level

An employee who disagrees with any assigned Final Rating may appeal within 14 calendar days of receipt of the rating to a local (agency, facility, subdivision, etc.) management review board and seek to have the rating raised to the next higher level. (If the organization of an agency is such that there is no need for a local board, this step in the process is omitted and the employee may

appeal directly to the next level.) The local board will consider the appeal and issue a determination within 14 days of receipt of the appeal.

2. Agency Level

An employee whose Final Rating is "Good" or lower and whose appeal has been denied at the local level may appeal to a management review board at the agency level and seek to have the rating raised to the next higher level. An appeal to the agency level must be submitted within 14 calendar days of receipt of the decision of the local board. The agency board will consider the appeal and issue a determination within 21 days of receipt of the appeal.

Local and agency level appeals boards are comprised of two or three management level individuals (three is preferred).

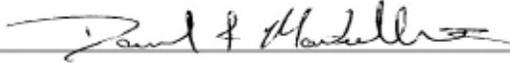
3. Security Services Unit Appeals Board

An employee whose Final Rating is "Unsatisfactory" and whose appeal has been denied at the agency level may appeal to a board established jointly by GOER and NYSCOPBA.

This board will consist of one union representative and, when necessary, a chairperson mutually agreed upon. An appeal to the Unit Appeals Board must be submitted within 14 calendar days of receipt of the decision of the agency board. The Security Services Unit Appeals Board will consider the appeal and issue a determination within 60 days of receipt of the appeal.

B. Representation

An employee may be represented at each step in the appeals process only by a person designated by NYSCOPBA.

 Corrections and Community Supervision DIRECTIVE	TITLE Report of Criminal Charges		NO. 2112
			DATE 05/05/2015
SUPERSEDES DIR# 2112 Dtd. 02/23/2011	DISTRIBUTION A	PAGES PAGE 1 OF 2	DATE LAST REVISED
REFERENCES (Include but are not limited to)	APPROVING AUTHORITY 		

I. POLICY: A “Report of Criminal Charges” must be filed when an employee is charged with the commission of:

- A felony or misdemeanor, or
- A violation which alleges possession and/or use of a controlled substance, or
- A domestic related incident and/or Order of Protection (current).

Supervisory staff shall make no statements or commitments concerning disciplinary action or suspension to an employee charged with a criminal offense. If, however, the charges are of such a serious nature to warrant consideration of suspension without pay, contact the Bureau of Labor Relations.

II. PROCEDURE

- A. An employee charged as above must report the following information in writing to his or her immediate supervisor before returning to duty:
1. Time, date, and location of the incident which forms the basis of the charge;
 2. Time, date, and location of arrest;
 3. The specific charge(s);
 4. The arresting agency;
 5. The court in which the criminal action is pending; and
 6. Disposition of the charge(s) if available.

Note: The employee should attach a copy of any documentation available from the court which shows the disposition. If a disposition has not been rendered by the time the initial report is filed, the employee must report it in writing to the Superintendent or Bureau/Division Head within one week of the date of disposition.

- B. The supervisor receiving a report of criminal charges from an employee shall promptly transmit that report to the Superintendent or Bureau/Division Head.
- C. The Superintendent or Bureau/Division Head receiving the report shall:
1. Contact the appropriate police or court authorities to determine the alleged circumstances of the charge(s) to obtain a copy of the police/arrest report and, if possible, to obtain copies of any statements made to police by the employee and witnesses.

2. Prepare a report containing the following:
 - a. A copy of police/arrest report;
 - b. A summary of the information requested in Section II-A above; and
 - c. A summary evaluation of the employee's work history with particular attention to similar incidents. Note if employee is in probationary status.
3. Transmit the report, and supplemental reports as subsequent information is obtained, to the Deputy, Associate, or Assistant Commissioner in charge of the division to which the employee is assigned, with copies to the Director of Labor Relations and to the Bureau of Personnel.
4. Prepare and submit an Unusual Incident Report in accordance with the provisions of Directive #4004, "Unusual Incident Report."



Lippes Mathias Wexler Friedman LLP

Attorneys at Law

Public Officers Law Section 17 – What to do if a member is sued.

Public Officers Law Section 17 contains provisions for defense (meaning an attorney) and indemnification (meaning financial payment by the State for certain settlements and judgments) in a civil action or proceeding in a state or federal court arising out of alleged acts or omissions which occurred or are alleged to have occurred while an employee was acting within the scope of his or her employment or duties. Importantly, the law makes it possible for an individual to be provided a defense, but not necessarily indemnification. The Office of the Attorney General (OAG) decides whether an employee will be provided a defense free of charge. If an employee is sued, it is important for him/her to immediately advise The Office of the Attorney General. We also recommend the employee contact his/her agency's or department's counsels' office, even though it is not specifically required by law.

Defense: An employee must follow the procedures outlined in *Public Officers Law* Section 17 in order to protect his/her potential rights to receive defense.

- Within five (5) days of being served the complaint (or other initiating papers), a copy of the papers must be delivered to the Office of the Attorney General. Delivery of these documents, within five (5) days of receipt, is considered the request for defense.
- An employee must fully cooperate with his/her defense and with the defense in any action against the State for the same act or omission, and in the prosecution of any appeal.
- If appropriate procedures are followed, and the employee is entitled to a defense, the Office of the Attorney General will represent the employee.
- If there is a conflict, the Attorney General will certify the employee for independent counsel, meaning the employee can retain private counsel of his/her choice to represent him/her at the State's expense. If the employee needs assistance in finding an attorney, he can contact NYSCOPBA and be referred to NYSCOPBA's legal counsel for guidance.

Indemnification: *Public Officers Law* Section 17 also provides that the State is required to "indemnify and save harmless" (meaning make financial payments pursuant to certain settlements and judgments) an employee when the act or omission involved in a settlement or judgment occurred while the employee was acting within the scope of his or her public employment or duties, so long as the injury or damage is not due to the employee's intentional wrongdoing. An employee must follow the procedures outlined in *Public Officers Law* Section 17 in order to protect his/her potential rights to receive indemnification.

- An employee subject to such litigation must actively participate in his/her defense throughout the course of the case in order to be eligible for indemnification.
- An employee must submit to the head of the department, commission, division, office, or agency in which he or she is employed, any proposed settlement which may be the subject of indemnification or payment by the State before it is accepted.
- Upon entry of a final judgment or settlement of a claim, the employee must serve, personally or by certified or registered mail, a copy of the judgment or settlement within thirty (30) days of entry, upon the head of the department, commission, division, office, or agency in which he is employed.

Conflicts: There are times when the Attorney General believes there is a conflict or, for some reason, cannot represent one or more members. The Attorney General will advise the member by letter that it will certify that the member is entitled to be represented by private counsel under Public Officers Law § 17. This means that the member may retain their own individual counsel to represent him or her in the pending lawsuit.

If the member is unable to find an attorney, we will be happy to represent the member or assist the member in ascertaining appropriate counsel. Our attorneys have extensive litigation experience on issues involving prisoner excessive force, failure to protect, and various civil rights and constitutional law claims, including:

Keesh v. Smith, 2007 U.S. Dist. LEXIS 71165 (USDC) (NDNY) - Successfully defended several CO's at Shawangunk CF against claimed First Amendment freedom of religion violations claimed by inmates practicing self-created religion of "Tulukeesh."

Gonzales-Cifuentes v. Torres, 2007 U.S. Dist. LEXIS 10553 (USDC) (NDNY) - Successfully defended several CO's at Great Meadow CF against claimed constitutional and civil rights violations regarding alleged false misbehavior reports, confiscation of property, denial of access to the courts and retaliation.

Heath v. Saddlemire, 2002 U.S. Dist. LEXIS 19615 (USDC) (NDNY) - Successfully defended several CO's at Coxsackie CF against claimed constitutional violations regarding deliberate indifference to serious medical needs, excessive force and failure to protect; also asserted counterclaims against inmate for assault and battery against CO's.

Estes-El v. Town of Indian Lake, 1998 U.S. Dist. LEXIS 7163 (USDC) (NDNY) - Successfully defended State Police against claimed constitutional violations for false arrest, malicious prosecution, retaliation and civil rights.

Sims v. Bowen, 1998 U.S. Dist. LEXIS 3856 and Foster v Resty, 1998 U.S. Dist. LEXIS 5434 (USDC) (NDNY) - Successfully defended CO at Great Meadow CF and CO at Auburn CF, respectively, against Eighth Amendment failure to protect claims.

Cerrone v. Brown, 246 F.3d 194 (2d Cir 2001) represented NYS Trooper in Section 1983 involving wrongful detention of Trooper by Internal Affairs.

Amador v. Superintendents of the Department of Correctional Services, 2007 U.S. Dist. LEXIS 89648 (SDNY 2007) represented Correction Officer in Section 1983 case accused of unlawful sexual contact with inmate; Claim against Officer dismissed on Summary Judgment.

Thomas v. Andrews, 2006 U.S. Dist. LEXIS 71709 (WDNY 2006), represented Correction Officer in section 1983 case in which plaintiff alleged violation of her First and Fourteenth Amendment rights; Claim dismissed on Summary Judgment.

Rounds v. Thompson, 9:12-cv-953 (2013) representing Correction Officer accused of excessive use of force, in violation of the inmate's Eighth Amendment rights. Case is continuing.

Jamison v. Zulko. (United States District Court for the Northern District of New York). We defended a NYSCOPBA vice-president and business agent who were sued by a former SHTA who contended that they discriminated against him by reason of race and violated his civil rights. We were able to get the court to dismiss case on motion.

Mercado v. Woodward, et al. (United States District Court for the Southern District of New York). We represented a sergeant and three correction officers who were sued by an SHU inmate who claimed a violation of his civil rights as the result of a use of force. After five days of trial this matter was settled and the State fully indemnified the sergeant and officers involved.

Morales v. State of New York, et al. (United States District Court for the Eastern District of New York). We represented a SSO2 (sergeant) who was sued by a former SSO1 claiming that the sergeant discriminated against her on the basis of her gender and that her employment was terminated on the basis of her gender. She also alleged that the sergeant violated her civil rights. The court granted our summary judgment motion dismissing the complaint.

Thomas v. Andrews, et al. (United States District Court Western District of New York). We represented two sergeants who were sued by a female inmate who claimed she was sexually assaulted by a male correction officer. The sergeants allegedly violated the Plaintiff's civil rights by failing to supervise the officer. The Plaintiff also claimed direct civil rights violations against the officers such as refusing to allow her to use the library and destroying her legal papers. The court granted our motion for summary judgment dismissing the complaint as to the sergeants.



Lippes Mathias Wexler Friedman LLP

Attorneys at Law

IMPROPER PRACTICES

1. The Taylor Law

1.1 The *Public Employees Fair Employment Act*, Article 14 of the *Civil Service Law*, usually referred to as the *Taylor Law*, is the law which governs public sector labor relations in New York State. This law designates the state agency that is charged with the responsibility of enforcing the *Taylor Law*. Further, this law describes the actions that public employers, public employees and unions can and cannot take in the realm of labor relations.

1.2 Under the *Taylor Law*, public employees have the right to organize and join unions; the right to negotiate collectively with a public employer; and the right to administer grievances that arise out of the employment relationship.

1.3 The *Taylor Law* also prohibits strikes by public employees. A strike is defined as a strike, slowdown or other concerted stoppage of work. It is important to note that the Public Employment Relations Board ("PERB") has found that an organized discontinuance of services that were formerly performed voluntarily can constitute a strike (i.e. "working to rule"). Members who engage in a strike are liable for "two for one" penalties.

1.4 The *Taylor Law* prohibits unions from taking any action to "cause, instigate, encourage, or condone a strike." Accordingly, the law requires a union to take affirmative action to prevent and/or to terminate a strike. A union found to have caused, instigated, encouraged or condoned a strike can be subjected to monetary fines and loss of dues check-off privileges.

2. The Public Employment Relations Board

2.1 PERB is the State agency primarily responsible for enforcing the *Taylor Law* and regulating public employment labor relations in New York State.

2.2 All representation issues are decided by PERB -- establishing appropriate bargaining units, monitoring representation elections, deciding on requests to fragment existing bargaining units.

2.3 PERB is responsible for administering mediation and fact-finding when the parties have declared impasse in contract negotiations.

2.4 PERB also decides improper practice charges.

3. Improper Practice Charges

3.1 Under the *Taylor Law*, both public employers and public employee unions can commit what are defined as improper practices. The statute lists the acts of a public employer which are improper practices.

3.2 It is an improper practice for a public employer to refuse to continue all the terms of an expired collective bargaining agreement until a new agreement has been negotiated. This is a charge that can only be filed by the union. This duty to continue the contract is sometimes referred to as the "Triborough Law".

3.3 It is an improper practice for a public employer to deliberately dominate or interfere with a public employee union, meaning that a public employer can't provide support for a union, or control the union's officers. This is also a charge that can only be filed by a union.

3.4 It is an improper practice for a public employer to interfere with, coerce or restrain public employees in the exercise of their rights to form, join or participate in unions. It is also an improper practice for a public employer to discriminate or retaliate against a public employee for exercising these rights. These are charges that can be filed by the union or by the affected employee directly. In order to win one of these charges, the union or the employee must prove that the only reason the employer took action against the employee was because of the employee's exercise of protected rights.

For example, a union steward made a statement during a labor/management meeting that stewards acting on union business did not have to follow the chain of command, directly contradicting the Superintendent. The Superintendent then immediately stood up, announced that the meeting was over, and walked out. The next day the steward was formally counseled by his immediate supervisor for his insubordinate comments during the meeting. This would be a good retaliation charge. Comments made (without threats of physical violence and without shouting or swearing) in the context of a labor/management meeting are protected activity, and management was clearly aware that the steward was acting in his capacity as a steward at that meeting. The Superintendent was clearly displeased at being contradicted, and the counseling was related only to the statements made by the steward.

3.5 It is also an improper practice for a public employer to refuse to negotiate in good faith with the union. This is a charge that can only be filed by the union.

(a) A public employer must negotiate with the union concerning terms and conditions of employment which are "mandatory subjects". If it is not a term or condition which is a mandatory subject, the employer has no duty to negotiate.

(b) The *Taylor Law* defines terms and conditions of employment as “salaries, wages, hours and other terms and conditions of employment.” PERB has, through its decisions over the last 30 years, established lists of mandatory and non-mandatory subjects. For example:

(i) Salary is clearly a term and condition of employment that the employer must negotiate upon the union's demand. Generally speaking, economic benefits to employees (such as payment of moving expenses or longevity pay) are mandatory subjects.

(ii) Staffing levels are non-mandatory subjects which the employer has no obligation to negotiate and the union has no right to insist on negotiating.

(iii) Health Insurance is a term and condition of employment and must be negotiated.

(iv) The determination of what equipment employees will use (such as two-way radios in buses, shotguns in police cars, the use of particular textbooks or bullet-proof vests) is non-mandatory, and the employer has no duty to negotiate.

(c) The most common type of improper practice charge concerning the duty to negotiate is filed during the term of the contract, when the employer makes a unilateral change in a term and condition of employment that is a mandatory subject, without first negotiating with the union.

3.6 When an employer's action is both a contract violation and an improper practice, PERB will “defer” to the contract grievance procedure and will conditionally dismiss the IP. Therefore, as a general rule, if there is a provision in the contract covering the subject, PERB will refuse to process the charge. PERB's policy is to encourage the parties to resolve disputes through their negotiated grievance process.

3.7 However, where an improper practice charge alleges employer domination, interference or retaliation, PERB will generally not defer the charge, even where the contract prohibits such conduct and the union files a grievance. It is PERB's policy not to defer these types of charges and exercise its exclusive jurisdiction over these issues regardless of contractual remedies the parties may have.

3.8 Similarly, when the employer acts without negotiating concerning a mandatory term and condition of employment that is not covered in the contract, there is no basis for deferral, and PERB will process the charge. This generally occurs when there is a well-established past practice that the employer changes.

(a) A “past practice” as PERB defines it:

(i) has to have been in place for a significant period of time;

- (ii) has to be widely known;
- (iii) must have been continuously followed without exception;
- (iv) must reasonably be expected to continue.

(b) For example, if the employer has for many years provided employees with free parking in a lot for their exclusive use, the employer cannot unilaterally start charging employees to park in that lot. This is because free parking is an economic benefit and a mandatory subject of negotiation. The practice of not charging for parking was long-standing, known by all employees, and available to all employees. The employer may not change its past practice of providing free parking without first negotiating with the union. Furthermore, employee parking is not covered by the parties' collective bargaining agreement. Therefore, PERB would have jurisdiction over the matter (it would not be "deferred").

(c) Currently, NYSCOPBA is challenging DOCCS' unilateral implementation of the required use of the clear bag. The argument is that this change impacts the employees' comfort and convenience, particularly relating to the restriction on the amount of necessary items an employee can bring into a facility for their shift (i.e., food).

4. The Right to Representation During a Disciplinary Interrogation

4.1 The *Taylor Law* was amended to provide representational rights for all public sector employees when they are questioned under circumstances creating the reasonable appearance that they may be the subject of discipline. This legislation, Chapter 244 of the Laws of 2007 (attached), was proposed and adopted after the New York State Court of Appeals found that no such right existed under the language of the *Taylor Law* as it existed at that time.

4.2 These rights are sometimes referred to as Weingarten rights, based on a United States Supreme Court decision in the case of *NLRB v. Weingarten*, 420 U.S. 251 (1975), which held that a private sector employee covered under the National Labor Relations Act had a statutory right to refuse to submit, without union representation, to an interview which he reasonably feared would result in discipline.

4.3 NYSCOPBA representatives should be taking the position that NYSCOPBA's probationary members have the right to representation during questioning when it reasonably appears that the employee may be subject to potential disciplinary action (i.e. termination of their probationary employment, etc.).

4.4 Members being questioned under these circumstances, whether it be in the facilities, at Central Office or otherwise, should be requesting union representation. If possible, they should attempt to get such a request on the record. This could be in a transcript, in the investigator's notes or a memorandum submitted before or during the questioning. If a member is denied representation, the member and/or representative should write up a detailed memorandum describing exactly what

happened. The memorandum should include information about the incident (such as: the names of the people involved; dates of events; places; the subject matter of the questioning; and whether or not there is some type of record of the member's request for representation).

4.5 The union representatives should follow up to ensure we are made aware if any discipline is taken against the member. All of the relevant information and documents should be forwarded to the regional representatives, so that the information can be forwarded to the law firm for review. We will evaluate each denial as we receive them to determine if an improper practice charge should be filed.

IS IT POSSIBLY AN IMPROPER PRACTICE?

Did the employer make a unilateral (not negotiated) change to an existing past practice?

- The prior practice must have been long term, widely known, followed without exception, and reasonably expected to continue.
- If “yes”, it may be an Improper Practice depending on the subject matter of the change.

Was the change related to a term or condition of employment that is a mandatory subject, such as money, time off from work, disciplinary procedures, comfort and convenience (i.e., availability of food), or other financial benefit (i.e., free parking)?

- If “yes” – it may be an Improper Practice.

Does the change relate to something specifically addressed in the Collective Bargaining Agreement?

- If “yes,” then PERB will defer jurisdiction and the matter will likely need to be addressed through a contract grievance and not an Improper Practice.

If you believe your employer may have committed an improper practice, please gather all information and documents related to the prior practice and the change, and provide immediately to your Vice President or Business Agent for review.

Improper Practice charges are filed by the union (drafted and submitted by the law firm). There is a strict four month timeframe to file the charge, so it is imperative you collect all information for review immediately.



Lippes Mathias Wexler Friedman LLP

Attorneys at Law

CONTRACT NEGOTIATIONS PROCESS

1. **Introduction:** This is an explanation of the contract negotiations process as it applies to negotiations between the State and NYSCOPBA for the Security Services Unit.

2. **Background:** The so-called "Taylor Law", formally titled the "Public Employees' Fair Employment Act" and set forth at Article 14 of the New York State Civil Service Law, was adopted in 1967 in response to frequent and disruptive strikes by municipal employees. The Taylor Law created the Public Employment Relations Board (PERB) and allowed public employees to collectively bargain with their employers in return for giving up the right to strike. Since the inception of the Taylor Law, public strikes have decreased dramatically.

The original Taylor Law did not contain a provision for binding interest arbitration. However, in 1974 the Legislature amended the law to provide for binding arbitration for municipal police and firefighters. The purpose of the amendment was to create a definitive resolution procedure, chaired by a neutral party, for resolving contract disputes involving public safety personnel. In more recent years, binding arbitration has been extended to other public safety employees, now including state correction officers. The binding arbitration bill was begun as a three-year experiment, and its provisions have historically been extended for consecutive two-year periods. However, during the 2013 Legislative Session, the legislature enacted legislation extending binding arbitration for three years.

3. **Binding Arbitration Extended to NYSCOPBA:** Pursuant to Chapter 586 of the Laws of 2001, as modified by Chapter 220 of the Laws of 2002, binding arbitration in contract negotiations was extended to those members of the Security Services Unit employed by the Department of Correctional Services and designated as "Peace Officers". Not all negotiations issues are eligible for binding arbitration. The law provides that issues directly relating to compensation, such as salary, stipends, location pay and insurance, are subject to binding arbitration, whereas non-compensatory issues, such as job security, disciplinary procedures, and deployment or scheduling, are not arbitrable.

Binding arbitration is an alternative form of dispute resolution, replacing fact-finding and the legislative hearing as the mechanism for resolving disputes over compensatory issues. Until the negotiations process reaches the public arbitration panel stage, however, compensatory and non-compensatory issues are addressed in the same way.

The Contract Negotiations Process:

3.1 Negotiations

- (a) The parties exchange bargaining proposals for a successor agreement. The proposals include both compensatory and non-compensatory issues.
- (b) Good faith negotiations must take place.

3.2 Impasse

- (a) After good faith negotiations have failed to produce an agreement, either party may declare impasse by filing a Declaration of Impasse with the Public Employment Relations Board (PERB), which administers the Taylor Law.
- (b) No specific time limits govern how long negotiations must proceed before a Declaration of Impasse may be filed; PERB's focus is on the inability of the parties to reach agreement despite their good faith efforts to do so.

3.3 Mediation

- (a) In response to a Declaration of Impasse, PERB appoints a mediator.
- (b) The mediator meets with the parties and attempts to assist them in reaching an agreement.
- (c) If the mediator is unable to bring about a settlement, either party may invoke the dispute resolution procedures.

3.4 Dispute Resolution

- (a) Binding Arbitration (for arbitration-eligible Corrections employees)
 - (1) Upon a petition for binding arbitration filed by the union, PERB refers the dispute to a "Public Arbitration Panel ("Panel").
 - (2) The Panel consists of three members: one appointed by the union, one by the employer and one "public member" appointed jointly by the parties.
 - (3) If the parties cannot agree on the public member, the selection is made from among a special list of arbitrators maintained by PERB. PERB provides the parties with the names of nine arbitrators from that list, and the State and NYSCOPBA take turns striking off names until only one remains. That person is appointed as the public member and serves as chairman of the Panel.

(b) Fact-Finding (for Law Enforcement employees)

- (1) At the request of either party or on its own motion, PERB appoints a fact-finding board of up to three people (one person is typical) to review the dispute and make recommendations for its resolution.
- (2) If the dispute is not resolved at least 80 days before the end of the fiscal year or by another date set by PERB, the fact-finding board transmits its recommendation to the Governor and makes it public. The recommendation is advisory only and is not binding.
- (3) If the dispute continues, PERB may take steps it deems necessary to resolve the matter, including making its own recommendations.
- (4) If the matter is still unresolved, the dispute may be submitted to the Legislature, which must then conduct a public hearing, at which the parties must explain their positions with respect to the fact-finding recommendation.
- (5) The Legislature is empowered to take whatever action it deems to be in the public interest; this may include the unilateral imposition of terms and conditions of employment for a period of up to one fiscal year. However, unless the union waives its Triborough rights by participating in the hearing, the Legislature must continue all the terms of the expired agreement.

3.5 The Binding Arbitration Hearing (for arbitration-eligible Corrections employees)

- (a) The Panel holds hearings on all issues related to the dispute.
- (b) The parties present witnesses and documents in support of their positions. This may include expert witnesses who will address issues such as the fiscal condition of the employer or comparative salary and benefit information and statistics.
- (c) The public member acts as chairperson of the panel and makes all rulings on procedure, evidence, witnesses, etc.
- (d) Witnesses are sworn and a stenographic transcript of the proceeding is made.
- (e) With large unions such as NYSCOPBA, the number of witnesses and the amount of evidence introduced can be

substantial; the hearings may extend over a period of several months.

- 3.6 The Binding Arbitration Award (for arbitration-eligible Corrections employees)
- (a) The Panel is empowered to make a “just and reasonable determination” of the matters in dispute.
 - (b) In reaching a determination, the Panel must consider, among other things:
 - (i) A comparison of the salaries and working conditions of the bargaining unit employees with those of other employees performing similar services, and with other employees generally in public and private employment in comparable communities; and
 - (ii) The interests and welfare of the public and the financial ability of the State to pay; and
 - (iii) The unique aspects of the job, including its hazards and physical qualifications, as compared to other trades or professions.
 - (c) All issues before the Panel are decided by a majority vote of its three members. The public member cannot dictate a decision on his own. He or she must get at least one other member to agree; this process often involves intense discussion, argument and give-and-take.
 - (d) The Panel does not have jurisdiction over non-compensatory issues unless conferred by the parties.
 - (e) The determination of the Panel, which is issued in the form of an “award”, is final and binding on the parties. It is not subject to ratification by the membership.

Staffing Training Packet Table of Contents

1. PERB / Taylor Law - Employer/Union Rights on Staffing Determinations
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3. Post Closing Notification Form
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 - Memos and Letters regarding plot plan changes and 7 day review process
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A demand for reasonable notice of layoffs to the union is mandatory.

Hudson Valley Comm Coll Faculty Assn and Hudson Valley Comm Coll, 12 PERB ¶3030 (1979); City of Albany, 7 PERB ¶3078 (1974).

A demand for notice which would limit the employer's power to eliminate positions is nonmandatory.

City of Albany, 7 PERB ¶3078 (1974).

Demands regarding the order of retrenchment or layoff are mandatory.

Hudson Valley Comm Coll Faculty Assn and Hudson Valley Comm Coll, 12 PERB ¶3030 (1979).

A demand that an employer discuss possible staff reductions would involve the union in the decisional process and is nonmandatory.

General Brown Teachers Assn, 10 PERB ¶3041 (1977).

A demand that the employer place employees released due to staff reduction in nonunit and nonemployer positions, is nonmandatory.

New Paltz United Teachers, 16 PERB ¶4552 (1983).

3.7 Vacancies

A demand that vacancies be filled, or be filled within a defined period of time, would restrict the employer's right to effect a staff reduction and is, therefore, nonmandatory.

City of Rochester, 12 PERB ¶3010 (1979); Scarsdale PBA, 8 PERB ¶3075 (1975) (30 days); City of Albany, 7 PERB ¶3079 (1974) (30 days); Professional Firefighters Assn, Local 274, 10 PERB ¶3043 (1977) (as soon as possible); Hudson Falls Permanent Firefighters, Local 2730, 14 PERB ¶3021 (1981) (as soon as feasible); City of Saratoga Springs, 16 PERB ¶3058 (1983) (immediately); VII of Mamaroneck PBA, 22 PERB ¶3029 (1989); NYCTA, 22 PERB ¶6501 (1989); Town of Henrietta, 25 PERB ¶6501 (1992); Niagara Falls Police Captains and Lieutenants Assn, 33 PERB ¶3058 (2000) (10 days).

A demand to include unit employees in the screening and interviewing of candidates to fill vacancies is nonmandatory.

Orange County Comm Coll, 9 PERB ¶3068 (1976).

The creation and filling of positions is a nonmandatory subject.

Churchville-Chili CSD, 17 PERB ¶3055 (1984); Town of Henrietta, 25 PERB ¶6501 (1992); Erie County Water Auth, 27 PERB ¶13010 (1994).

A demand that the employer request the scheduling of civil service exams so as to insure the availability of a list for filling vacancies is mandatory.

Brighton Fire Dist and Brighton Professional Firefighters Assn, Local 2223, 10 PERB ¶4545 (1977).

Posting and bidding procedures for vacant positions are mandatorily negotiable.

City of Schenectady, 22 PERB ¶3018 (1989), affg 21 PERB ¶4605 (1988). But see Cortland Paid Firefighters Assn, Local 2737, 29 PERB ¶3037 (1996) (posting for minimum period before filling vacancy is nonmandatory). See also Niagara Falls Police Captains and Lieutenants Assn, 33 PERB ¶3058 (2000); Rochester Police Locust Club, 43 PERB ¶4592 (2010).

The rate of pay for employees temporarily filling vacant positions is a mandatory subject of negotiation.

City of Schenectady, 22 PERB ¶3018 (1989), affg 21 PERB ¶4605 (1988).

Although police union's proposal was mandatorily negotiable insofar as it sought to expand the required notice period from five to thirty days and to have vacancies filled on the basis of seniority, the remaining aspect of demand — that the city fill positions within ten days of expiration of the notice — was nonmandatory because it sought to curtail city's managerial prerogative in deciding when to fill a vacancy.

Niagara Falls Police Club, Inc., 34 PERB ¶4506 (2001).

3.8 Staffing Levels

Determinations relating to deployment of staff are nonmandatory.

Rochester Police Locust Club, 43 PERB ¶4592 (2010); State of New York (Division of State Police), 46 PERB ¶3003 (2013).

A demand that an employer maintain a specific table of organization or organizational structure would interfere with its right to determine its staffing needs and staff deployment and is nonmandatory.

Tray Uniformed Firefighters Assn, Local 2304, 10 PERB ¶3015 (1977); Scarsdale PBA, 8 PERB ¶3075 (1975). See also Town of Carmel, 31 PERB ¶3006 (1998), affd, 267 AD2d 858, 32 PERB ¶7028 (3d Dept 1999); Rochester Police Locust Club, Inc., 40 PERB ¶4539 (2007); County of Nassau, 40 PERB ¶4554 (2007).

The number of employees assigned to a piece of equipment raises a compelling safety issue, but that is outweighed by the employers general right to fix staffing requirements unilaterally. The safety considerations should be dealt with outside the negotiating process. Thus, staffing per piece of equipment is nonmandatory.

City of White Plains, 9 PERB ¶3007 (1976) and *Local 294, IBT*, 10 PERB ¶3007 (1977) (2-person patrol cars); *Niagara Falls Uniformed Firefighters Assn, Local 714*, 9 PERB ¶3025 (1976) (5 fire fighters per apparatus); *State of New York (Dept of Transp)*, 27 PERB ¶3056 (1994) (2-person snow plows).

The number of employees on duty per piece of equipment or at a particular facility is a nonmandatory subject.

Intl Assn of Firefighters City of Newburgh, 10 PERB ¶3001 (1977); *City of Saratoga Springs*, 18 PERB ¶3009 (1985); *State of New York-UCS*, 25 PERB ¶3061 (1992) (number of employees on a work assignment).

A demand that a minimum number of employees be on duty at all times is nonmandatory because it infringes on the employer's managerial right to determine the level of services to be provided.

Village of Johnson City, 9 PERB ¶3042 (1976); *Local 294, IBT*, 10 PERB ¶3007 (1977); *City of Schenectady*, 18 PERB 53035 (1985); *City of Glens Falls*, 30 PERB ¶3047 (1997); *County of Nassau*, 40 PERB ¶4554 (2007). See also *Schenectady PBA*, 21 PERB ¶3022 (1988); *Johnstown PBA*, 25 PERB ¶3085 (1992); *Vil of Washingtonville PBA*, 43 PERB ¶4586 (2010).

Although staffing and the level of services provided by an employer are nonmandatory subjects, an employer's choice of the specific means of accomplishing those prerogatives directly affects terms and conditions of employment and, therefore, is a mandatory subject.

County of Erie, 43 PERB ¶3016 (2010), *confd*, 81 AD3d 1313, 44 PERB ¶7002 (4th Dept 2011).

An employer's decision to cease dispatching a backup vehicle to certain Emergency Medical Service calls constitutes a change in the fire district's deployment of its staff rather than a safety issue and, therefore, is a nonmandatory subject of bargaining.

Lake Mohegan Professional Firefighters Assn, Local 2956, IAFF, AFL-CIO, 41 PERB 53001 (2008).

A demand regarding manning levels and increased compensation for firefighters was a mandatory subject of bargaining.

Niagara Falls Uniformed Firefighters Assn, AFL-CIO, Local 714, 37 PERB ¶4520 (2004).

A demand that a part-time employee not be used if the use of a full-time employee is justified extends to staffing policies and is nonmandatory.

Orange County Comm Coll, 9 PERB ¶3068 (1976).

The substitution of part-time employees for full-time employees, absent a change in the nature or level of services, must be negotiated.

County of Broome, 22 PERB ¶3019 (1989); *State of New York-UCS*, 28 PERB ¶3014 (1995); *Town of Woodbury*, 45 PERB 54503 (2012). Compare *Marcellus CSD*, 32 PERB 54639 (1999) and *State of New York (Dept of En Con)*, 47 PERB ¶3035 (2014).

The union's demand, which included clauses governing work schedules and procedures for vacation selection in the parties' successor agreement, addressed terms and conditions of employment, thereby rendering the demand a mandatory subject of negotiation. Contrary to the City's argument, the Board concluded the demand did not interfere with the City's right to determine staffing needs, deploy staff, or how to render services to the public.

Patrolmen's Benevolent Assn, 37 PERB ¶3033 (2004).

A bargaining demand requiring all employees who provide a particular service be off on holidays was not mandatorily negotiable because it affects staffing and would prevent the employer from providing that service on a holiday.

City of Cortland, 29 PERB ¶3037 (1996).

Compensatory time is a mandatory subject of bargaining. The level of staffing is a management prerogative, central to decisions regarding the delivery of service and, is, therefore, a nonmandatory subject of bargaining. A demand for specific levels of supervision is also a nonmandatory subject of negotiation.

City of New Rochelle and Police Assn of New Rochelle, 35 PERB 114523 (2002).

A change in the manner in which vacation relief officers bid on partial weeks is nonmandafory because it affects the State's manpower concerns in filling shift assignments due to vacations.

State of New York (DOCS-Elmira Corr Fac), 39 PERB ¶3004 (2006).

3.9 Call-Ins

A demand which would require the call-in of off-duty fire fighters is nonmandatory.

Local 589, Intl Assn of Firefighters and City of Newburgh, 16 PERB ¶3030 (1983); *Hudson Falls Permanent Firefighters, Local 2730*, 14 PERB ¶3021 (1981); *City of Saratoga Springs*, 16 PERB 53058 (1983); *City of Albany*, 7 PERB ¶3078 (1974); *City of Glens Falls*, 30 PERB ¶3047 (1997).

STATE OF NEW YORK
VOLUNTARY LABOR TRIBUNAL

-----XXX
In the Matter of the Expedited Contract Arbitration Between:
The State of New York: DOCS
Groveland Correctional Facility

-and-

TRIAGE EXPEDITED AWARD

Security Unit Employees
NYSCOPBA

RE: Class Action
Case No: OER File No. 06-01-493
CON 06- 0548

-----XXX
Before: Joel M. Douglas, Ph.D.
Master Arbitrator

Date: March 7, 2007

Pursuant to the Collective Bargaining Agreement (CBA) between the parties, and in accordance with the rules governing the TRIAGE process, the above stated grievance was heard by this undersigned Master Arbitrator.¹ A hearing was held in Albany, NY on February 9, 2007, during which time the State was represented by James Taylor, Esq., Assistant Counsel, Governor's Office of Employee Relations (GOER). The Union was represented by William Sheehan, Esq., Sheehan Greene Carraway Golderman & Jacques. At the conclusion of the hearing both parties submitted closing letter briefs. This Opinion and Award are based on the record as constituted.

ISSUE

During the January 25, 2007-triage session the parties stipulated to the following issues:

1. Is the grievance arbitrable?
2. If so did the State of N.Y. (DOCS - Groveland C.F.) violate Article 22 or Article 24 when, in July of 2006, it closed posts at the start of a shift?²
3. And, if so, what is the appropriate remedy consistent with the Agreement?³

¹ This expedited arbitration decision is non-precedential, but may be considered instructive.

² The original grievance only referenced Article 22 but was amended to include Article 24.

³ As a remedy the Union suggests that all posts be open at the start of a shift and then, as emergencies develop, respond as necessary.

DISCUSSION OF THE ARBITRATOR

1. The issue at grievance concerns post closings at Groveland CF in violation of Articles 22 and 24. ⁴ The State claims that the post-closings are not arbitrable under either Article 22 or Article 24 while the Union submits that the "Safe Working Condition" provision of Article 22 controls and the comprehensive parameters of Article 24 permit arbitration.
2. The Union argues that due to post-closing fewer officers are working and, as such, health and safety problems have been created. They note that in recent times that three Groveland inmates have died and that due to the closure of certain "red - dot" posts that fewer officers were available to respond to emergencies. CO Donald Lemmon testified via telephone and stated that he examined the staff planning grid and noted that numerous posts were closed for lengthy periods. He described post-closing as one in which a bid job was closed down for a day and the officer who held the bid was told to go elsewhere. For the time at grievance Lemmon noted that this was the "worst it has been for a few years."
3. Captain Paul Hendel testified as to the post-closing procedure employed at Groveland. He noted that at the time of the grievance the facility was short-staffed and was experiencing numerous retirements and that they did what was necessary and critical to fulfill their mission. He noted that the facility had discretion not to fill certain posts and that the authority to use overtime for staffing purposes was vested in the office of the DSS. In terms of the relationship between staffing and seniority, the Captain stated that with respect to post-closings that seniority was critical "the day before [post-closings] but there was no exercise of seniority the day of." He noted that the facility routinely goes to overtime when critical needs are required and that seniority was considered when vacancies are known in advance. Hendel added that staffing was impacted by vacation groups and contractual holidays. ⁵
4. Captain Hendel stated that "post-closing are not consultative" and that "work safety was always considered in post-closing." The Captain stated that all vacancies that are known 24 hours in advance are filled to the level of available resources. He concluded that there were no documented issues where an officer was injured because of a post-closing.
5. While the issue of post-closings is significant and may create certain facility issues, pursuant to the CBA, post-closings are not arbitrable. The closing of a post may create a particular problem which may extend to a "safe working condition"; however, Article 22, Section 22.5 states that. "*Grievances alleging failure to comply with this Article shall be processed pursuant to Article 7, paragraph 7.1(B)*" Said provision permits grievances to be processed up to and including the conference phase of the ADR process and not beyond. The record documents that the instant grievance was properly addressed at the conference phase of the ADR-Triage procedure and may proceed no further.

⁴ At the time of the post closings the facility was down some thirty-five officers. At the time of the instant hearing Groveland was short six or seven officers. There are some 465 officers on the facility plot plan.

⁵ For example on certain contractual holiday the facility closes the law library and the vocational school.

6. The State argued that even if the issue were arbitrable, there is no direct link between post-closings and seniority. The testimony of Captain Hendel that seniority plays a role only the day prior to the closing but not at the time the actual post closed is acknowledged. Article 24 of the CBA details seniority. Assuming arguendo the validity of the Union's position that seniority should control post-closings, Section 24.3 mandates that: " . . . *Grievances arising under this section shall be processed up to Step 3 of the grievance procedure but not to arbitration.*" The grievance and the record evidence was unable to overcome this contractual prohibition.⁶
7. Neither Article 22 nor Article 24 permits the arbitral relief sought by the Union. The clear and unambiguous contract language controls and is dispositive. Therefore, based on the record, and in accordance with the CBA, the undersigned Awards:

A W A R D

1. Pursuant to Articles 22 and 24 the issue of post-closings is not arbitrable.

JOEL M. DOUGLAS, Ph. D.
Master Arbitrator
March 7, 2007



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THOMAS D. LATIN
TLATIN@SHEEHANGREENE.COM

January 31, 2012

**Re: Expedited Contract Grievance Arbitration
DOCCS (Marcy C.F.) and NYSCOPBA (Sgt. Michael Scott)
C-10-0569**

Dear Sergeant Scott:

We have enclosed the award of the Arbitrator, Joel M. Douglas. The award holds that post-closings grievances are not arbitrable whether they are framed under Article 15 of the CBA (overtime) or Article 22 of the CBA (safety).

Should you have any questions please do not hesitate to call me.

Very truly yours,

Thomas D. Latin

Enclosure

cc: Central New York Regional Office (w/enclosure)
Robert Cronin (w/enclosure)
David Viddivo (w/enclosure)
Francis J. Kiernan, CSS Marcy C.F.(w/enclosure)

SGGJ 907065

STATE OF NEW YORK
VOLUNTARY LABOR TRIBUNAL

----- XXX

In the Matter of the Expedited Contract Arbitration Between:
The State of New York: DOCCS
Marcy Correctional Facility [MCF]

-and-

TRIAGE EXPEDITED AWARD

Security Unit Employees
NYSCOPBA

RE: Sergeant Michael Scott

Case No: OER File No. 10-01-0449
Union Case # C-10-0569

----- XXX

Before: Joel M. Douglas, Ph.D.
Master Arbitrator

Date: January 12, 2012

Pursuant to the Collective Bargaining Agreement (CBA) between the parties, and in accordance with the rules governing the TRIAGE process, the above stated grievance was heard by this undersigned Master Arbitrator.¹ A hearing was held in Albany, NY on January 6, 2012, during which time the State was represented by Lynn Vance, Esq., Assistant Counsel, Governor's Office of Employee Relations (GOER). The Union was represented by Thomas Latin, Esq., Sheehan Greene Golderman & Jacques. This Opinion and Award are based on the record as constituted.

ISSUE

On December 23 and December 28, 2011 the parties stipulated to the following issues:

1. Did the State of N.Y. (DOCCS - Marcy C.F.) violate Article 15.1 of the 2007 - 2009 SSU Agreement, when, on or about August 17, 2010, it closed Grievant's SHU/RASAT post?²

¹ This expedited arbitration decision is non-precedential, but may be considered instructive.

² The original grievance only referenced Article 15 but was amended at the Step 3 to include Article 22.

2. If so, what is the appropriate remedy consistent with the Agreement?
-

DISCUSSION OF THE ARBITRATOR

1. The Union argues that the instant matter is an attempt by the State to avoid the payment of overtime and as such is a clear violation of Article 15. By the closing of a post in order to avoid overtime payments the Union contends that a major safety issue was created as the post in question [Unit 7] covers some six housing units as well as an MHU. The Union submits that the "Safe Working Condition" provision of Article 22 controls and the comprehensive parameters of Article 24 permit contract arbitration. In terms of a remedy, the Union seeks a declaration that DOCCS no longer close supervisory posts for the purpose of overtime avoidance.
2. The State postulates that the Grievance is rooted in the question of post-closings and as such is not arbitrable. They claim that the post-closings are not arbitrable under Article 22 or Article 24. They further argue the CBA limits the question of post-closings to the Article 7 ADR conference phase and the matter is therefore precluded from arbitration. In their assertion they are correct.
3. As I previously noted in *Groveland*;

While the issue of post-closings is significant and may create certain facility issues, pursuant to the CBA, post-closings are not arbitrable. The closing of a post may create a particular problem which may extend to a "safe working condition"; however, Article 22, Section 22.5 states that "Grievances alleging failure to comply with this Article shall be processed pursuant to Article 7, paragraph 7.1(B)" Said provision permits grievances to be processed up to and including the conference phase of the ADR process and not beyond. The record documents that the instant grievance was properly addressed at the conference phase of the ADR-Triage procedure and may proceed no further.

While *Groveland* was an expedited arbitration award and therefore not dispositive, the fact-patten and analytical framework used by the undersigned were analogous to that employed in *Scott*.²

4. An analysis of *Scott* is set forth below:
 - A. The record documents that Unit 7 is Scott's regular bid.
 - B. On August 17, 2010, an MHU inmate was the subject of a trip

²

See, *The State of New York: DOCS Groveland Correctional Facility, RE: Class Action*, Case No: OER File No.06-01-493, CON 06- 0548, dated March 7, 2007

from the facility to the county court house.³

- C. The trip was scheduled one week prior and since the two officers assigned to the trip were relatively inexperienced, a decision was therefore made to send a supervisory sergeant [Scott] on the trip.
 - D. The round trip was two hours in duration.
 - E. The trip left at 8:36.a.m. and returned at 10:28 a.m. (See, Gate Pass JX #5)
 - F. Sgt. Scott was relieved from his post and sent on the aforementioned trip.
5. Captain Glenn Scarafile testified for the State and stated that the decision to send Sgt. Scott on the trip was made that day and that in essence Post 7 was not closed. He noted that seven sergeants work that shift but due to short staffing, no one else was available. He knew that inmate being escorted was both seriously ill and assaultive and believed that a sergeant was necessary. Even though the trip was scheduled one week prior, the Captain noted that transport personnel were not designated until the day before.
6. In terms of Unit 7 coverage, the captain testified that the post was not "closed" but that the other six sergeants on duty could assist. Overtime was not offered since the two midnight sergeants had worked "a double" and there was not enough time to get someone else in. Since the scheduled trip was "short" the decision was made not to hire any overtime. In sum, the captain praised the Sergeant as an outstanding officer but that he was forced ". .. to manage the best we can."
7. The State further argues that pursuant to the CBA they have the right to exercise their management prerogative to make decisions of this type and their determination was consistent with their right to use their limited resources the best that they can. They argue that the instant matter is devoid of evidence that the post was illegally closed in order to avoid overtime. Absent a contractual obligation to award overtime, they contend that no violation occurred. They further claimed that if indeed there was a safety and health issue, there are other available mechanisms' besides from arbitration to resolve same.
8. The Union disputed the testimony of the Captain that the post remained open as the record documents that in essence the post was closed. No specific individual was assigned to Unit 7 or was given specific instructions as to any of the specified tasks.. The evidence suggests that the post was indeed closed and that no regular Post 7 duties were performed. The coverage details were vague at best and it appears that the post was left unsupervised during Scott's absence. Albeit that some safety issues may have been created, the closure of Unit 7 was contractually permissible.

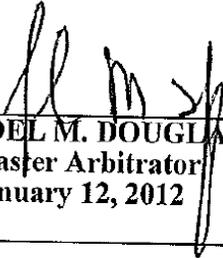
3

The inmate was part of the RMHU [Regional Mental Health Unit] and are considered on SHU status.

9. The CBA mandates that one cannot circumvent Article 22 [post closings] by arguing safety or health. While there may be some legitimate issues raised, they are precluded from being the subject of grievance arbitration. Neither Article 15 nor Article 22 permits the arbitral relief sought by the Union. The clear and unambiguous contract language controls and is dispositive. Therefore, based on the record, and in accordance with the CBA, the undersigned Awards:
-

A W A R D

1. The grievance is denied.
2. The State of N.Y. (DOCS - Marcy C.F.) did not violate Article 15.1 of the 2007 - 2009 SSU Agreement, when, on or about August 17, 2010, it closed Grievant's SHU/RASAT post.


JOEL M. DOUGLAS, Ph. D.
Master Arbitrator
January 12, 2012



New York State Correctional Officers
 & Police Benevolent Association, Inc.
 102 Hackett Blvd. – Albany, NY 12209
 (888) 484-7279 www.nyscopba.org nyscopba@nyscopba.org



POST CLOSING NOTIFICATION

DATE: _____ FACILITY: _____ JOB # _____

JOB TITLE: _____

POST CLOSED AT: _____ POST REOPENED: YES: TIME: _____ NO:

REDIRECTED TO:

REDIRECTED BY:

I AM A FACILITY RESPONSE OFFICER (RED DOT TEAM): YES: NO:

- Members forward form to Sector Steward
- CSS forward to NYSCOPBA Grievance and Staffing Office



New York State Correctional Officers
 & Police Benevolent Association, Inc.
 102 Hackett Blvd. – Albany, NY 12209
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STATE OF NEW YORK

**DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**

THE HARRIMAN STATE CAMPUS – BUILDING 2

1220 WASHINGTON AVENUE

ALBANY, N.Y. 12226-2050

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

JOSEPH F. BELLNIER
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

MEMORANDUM

TO: All Superintendents

FROM: Joseph F. Bellnier, Deputy Commissioner 

DATE: July 8, 2014

SUBJECT: Facility Closed Posts

The effective use of security resources is a critical component in ensuring the safety of staff and inmates and the security of the facility. Superintendents and their facility supervisors are responsible for managing these resources as efficiently as possible while safeguarding our institutions.

One of your most important management tools is your ability to move staff. You must ensure that your staffing lieutenant accurately preplans the charts, balances shift and squad assignments for the chart period, and reviews the charts on a daily basis to determine if adjustments must be made to meet your changing workload.

Think carefully about the closing of a post. This is an area where Superintendents and their Deputy Superintendents for Security must pay close attention on a daily basis to ensure that before any post is closed, the post closure is either necessary or appropriate and will not jeopardize institutional safety and security. The following criteria must be considered prior to closing a post:

- Will the closure of the post jeopardize the facility safety?
- Is the post a response team position? If so, the response team responsibility should be reassigned or the post should not be closed.
- What is the workload associated with the post?
- What are all of the security duties for the posts with multiple tour stations, e.g., a lawn and grounds officer who also has messhall coverage at meal times?
- Is the post closure directly related to a facility emergency, i.e., outside hospital transport, cell extraction, weather conditions, etc.

Where it is determined to be necessary to close a post(s), the post(s) should be reopened as soon as additional resources become available or as the conditions warrant.

In the near future, the Security Staffing Unit will conduct a comprehensive staffing audit of each of the Department's facilities. This review will include an examination of the number of post closures, the frequency and the reasons for the closures and where the staff was redirected.

Any questions regarding the above should be directed to your Assistant Commissioner for Correctional Facilities.



GLENN S. GOORD
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

CHARLES M. DEVANE
DEPUTY COMMISSIONER
ADMINISTRATIVE SERVICES

March 13, 2000

JOB REBIDDING
50%

Mr. Jim Littlefoot
Director of Grievances
NYSCOPBA
194 Washington Avenue
Albany, New York 12210

Dear Mr. Littlefoot:

I have a copy of your letter to John Seiler regarding his early 1999 response to an Otisville grievance. You are seeking copies of minutes from statewide discussions regarding job rebidding. The portion of concern to you regards jobs that change by more than 50%.

We have researched this topic and, while we all remember the issue, we cannot find a record of that event. In any case, the 50% rule was never actually put into effect because it was too hard to quantify. Instead, we merely look for substantial change that would make a job either much more or less appealing. Of course, we also look to NYSCOPBA's recommendation when we decide whether to rebid the job.

Sincerely,

Peter B. Brown
Director
Bureau of Labor Relations

PBB/mmg



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

GLENN S. GOORD
COMMISSIONER

CHARLES M. DEVANE
DEPUTY COMMISSIONER
ADMINISTRATIVE SERVICES

May 30, 2002

Mr. Daniel Annutto
Business Agent
NYSCOPBA
Satellite Office
4981 Commercial Drive
Yorkville, New York 13495

RE: Agency Level Decision
L-14-02C, CON02-0434, 02-02-09
C. O. Schiffer & Vincent

Dear Mr. Annutto:

This will serve as the Agency Level Step 2 response to the above-referenced grievance which we discussed at the Marcy Correctional Facility.

This grievance arises from a dispute over what kind and degree of changes to a given job should result in the job being put up for bidding. In this specific case, Bid Job #0093 was changed from a Squad 1 wheel job to a Squad 8 job (weekends off). The grievants maintain that such a change is substantial enough to merit that job 0093 be re-bid.

As evidenced by the letters attached to the grievance from Bureau of Labor Relations (BLR) Director Peter Brown and BLR Assistant Director John B. Seiler (both of whom are this writers supervisors by the way), it is and has been the position of this office that a change in a job from a wheel job to a squad 8 job is, in fact, substantial enough to merit a re-bid. The grievance accordingly is sustained and a re-bid of job #0093 is ordered.

The parties are encouraged to meet at the local level to discuss what types of changes in job should merit re-bids and what changes should not merit re-bids. This will prevent future disputes over this issue.

Sincerely,

David Riley
Labor Relations Representative

DR/jeh

cc: Supt. Greene
DSS Jubert
B. Shanagher - NYSCOPBA
A. Farda
C. O. Restle
C. O. Vincent



GLENN S. GOORD
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

March 31, 1999

L#2967
COUNCIL 82
RECEIVED
APR 1 1999

AFSCME AFL-CIO

CHARLES M. DEVANE
DEPUTY COMMISSIONER
ADMINISTRATIVE SERVICES

Mr. Charles Cambareri
Field Representative
Council 82
RD 1 Box 349
Westtown, NY 10993

*cc - file
Cc: R. Feliciano
Jane Cole
C. Cambareri*

RE: Agency Level Decision
Feliciano; Otisville CF
L-25-98C; C98-1787; 98-29

Dear Mr. Cambareri:

On Friday, March 26, 1999 we met at Otisville Correctional Facility to discuss the above referenced contract grievance alleging the Department violated Article 24 of the negotiated agreement between the State of New York and Council 82.

The issue in this grievance is posting and bidding.

It is the union's position that a job was changed from a Squad 9 to a Squad 8 without it being posted.

In looking at this grievance, it must be noted that this issue had been discussed at Statewide Labor/Management meeting. It was discussed that jobs would be re-bid if there was a substantial change in them. This being defined as the job changing by more than 50%. However, it was agreed by both parties that a job becoming a Squad 8 job would be considered to be a substantial change and should be re-bid. Based on this agreement, it is my determination that the remedy sought in this grievance should be granted. This job should be put up for bid.

Sincerely,

John B. Seiler
Deputy Director
Bureau of Labor Relations

JBS:co

cc: Supt. Edwards
DSS Kikendall
Richard Abrahamson
C.O. Coles
C.O. Feliciano



STATE OF NEW YORK
DEPARTMENT OF CIVIL SERVICE
THE STATE CAMPUS
ALBANY, NEW YORK 12239

GEORGE C. SINNOTT
COMMISSIONER

DANIEL E. WALL
EXECUTIVE
DEPUTY COMMISSIONER

August 18, 2000

RECEIVED
AUG 23 2000
NYSCOPBA

Mr. Jim Littlefoot, Grievance Director
Mr. Daniel Stuart, Associate Director
Mr. Donald Premo, Staffing Specialist
NYSCOPBA
194 Washington Avenue
Albany, New York 12210

Re: Time and Attendance Issue

Gentlemen:

The purpose of this letter is to respond to your inquiry dated June 29, 2000, in which you requested an opinion regarding whether, in the case of a Correction Officer who has worked over 16 hours straight, a rest period is required without charge to accruals or overtime credits before the Officer works his/her next regularly scheduled tour of duty.

There is no provision in the Civil Service Law or the Attendance Rules governing rest periods. It appears this is a matter which is subject to collective bargaining.

Very truly yours,

Patricia A. Hite
Office of Counsel

PAH/AJB:tph

Agreement for the Bidding of Temporary Job Vacancies

- 1) All full time jobs which Correctional Services management determines will exist beyond six months will be posted and bid immediately.
- 2) Full-time jobs which initially are not expected or intended to last six months but, in fact, continue will be posted for bid when they have existed for five months and will be awarded 30 days later.
- 3) "Temporary jobs" as used in this Agreement shall meet:
 - a. temporary jobs funded by the Division of the Budget such as construction items
 - b. unfunded positions (i.e., positions which do not exist on the formally approved plot plan) but which have been approved by the Department
 1. on an interim plot plan

OR

 2. for submission to the Budget
 - c. a permanent item which is temporarily vacant
- 4) Any individual who bids on, and is awarded such a temporary assignment, will give up his right to his former bid job.

The determination as to the length of time a position will exist remains management's. However, the Department will investigate expeditiously at the Department level allegations that local management is failing to act in good faith in this area. Problems resulting with this type of bidding will be reviewed at future Department Labor/Management Committee Meetings upon submission of written documentation of specific cases.

- 5) Under this Agreement, individuals who accept a provisional or temporary promotion at another facility or outside the jurisdiction of the Security Unit will have their bid jobs posted as permanent vacancies.

This Agreement shall have Department-wide application except as to the specific arrangements agreed to between the Department and Council 82 as outlined in the attached submissions by Council 82 for the Auburn, Coxsackie and Ossining Facilities.

AGREEMENT FOR THE BIDDING OF TEMPORARY JOB VACANCIES

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- 3) "Temporary jobs" as used in this Agreement shall mean:
 - a. temporary jobs funded by the Division of the Budget such as construction items; ✓
 - b. unfunded positions (i.e., positions which do not exist on the formally approved plot plan) but which have been approved by the Department:
 1. on an interim plot plan ✓

OR

 2. for submission to the Budget ✓
 - c. a permanent item which is temporarily vacant. ✓
- 4) Any individual who bids on, and is awarded such a temporary assignment, will give up his right to his former bid job.

The determination as to the length of time a position will exist remains management's. However, the Department will investigate expeditiously at the Department Level allegations that local management is failing to act in good faith in this area. Problems resulting with this type of bidding will be reviewed at future Department Labor/Management Committee Meetings upon submission of written documentation of specific cases.

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This Agreement shall have Department-wide application except as to the specific arrangements agreed to between the Department and Council 82 as outlined in the attached submissions by Council 82 for the Auburn, Coxsackie and Ossining Facilities.

DATE: June 19, 1974

SIGNED: [Signature]
FOR DEPARTMENT OF CORRECTIONAL SERVICES

John Van De Car?
Cock Gray

[Signature]
FOR COUNCIL 82

#4 Temporary Jobs

Union's Position

The union discussed the issue of temporary jobs (eg. construction, etc.) and a formula for the number of staff needed and how established.

Management's Position

The Department abides by the temporary bidding agreement first written by Jack Vandecar in the early 1970's. Basically, this agreement allows for the bidding of all temporary posts that we anticipate will last six month or more or temporary posts that have lasted for more than five months unbid.

President Flanagan made the observation that an arbitrator has recently ruled that we will be required to bid, from resource, all temporary posts with lifetimes of more than two weeks.

Actually, this is inaccurate. Arbitrator Douglas did not rule in that fashion but signed a Consent Award between the parties that at Arthur Kill Correctional Facility, by the agreement of the parties, this would occur. This settlement was non-precedential, Arthur Kill Correctional Facility specific, and contained language about the settlement's very limited use. It does not apply to more than one facility in the Department and in that specific case because of an agreement that was not to be used to affect other facilities.

With respect to the raised topic of facilities resource pool distribution, the Department agreed that Phil Battiste, Director of Security Staffing, would meet with John Pappas to discuss this matter.

NOV 8 2006 Statewide LM



DEPARTMENT OF CORRECTIONAL SERVICES

THE STATE OFFICE BUILDING CAMPUS

ALBANY, N.Y. 12226

THOMAS A. DOUGHLIN III
COMMISSIONER

September 1990 SWLM

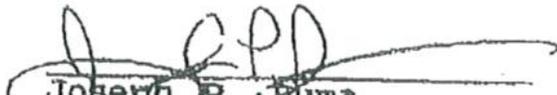
SENIORITY SECURITY RESOURCE POOL

(VARIOUS VARIOUS)

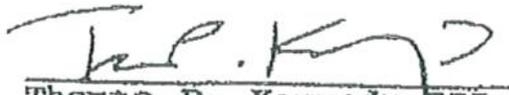
It is agreed by Council 82 and the Department of Correctional services that seniority shall be the basis by which those employees in the portion of the security resource pool known as various various will select pass days, shift and job assignments.

The bidding process will be decided upon at each facility through the labor/management process.

This agreement is a guideline and does not supersede current local agreements regarding the assignment of employees in the security resource pool.


Joseph P. Puma
Executive Director
Council 82


Thomas A. Doughtlin III
Commissioner
Department of Correctional
Services


Thomas P. Kennedy III
President
Council 82


Joseph Kraft
Policy Chairman
Council 82



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Date of Decision- April 8, 2003

Opinion and Award: CON01-0995 **Article 24.2 Seniority (Selection of Pass Days)**

Issue/Subject Matter: Did the State of New York (DOCS Southport) violate Article 24.2 when, on or about August 9, 2001, it did not afford those Vacation Relief Officers not actually assigned a Vacation Relief Slot an opportunity to select their pass days on the basis of seniority? On or about February 2000, Southport Superintendent Michael McGuinness advised the Union that Vacation Relief Officers without a vacation slot would henceforth be made various/ various and assigned a shift and squad by the planning Lieutenant. The reason given was to reduce overtime.

Opinion: Prior to and following the change implemented by the Superintendent, Vacation Relief Officers, who are considered part of the resource pool, were allowed to select their vacation coverage and hence their pass days on the basis of seniority. Considering the evidence in its entirety, the Arbitrator finds the grievance should be sustained. First, Article 24.2 does unequivocally state that seniority shall be the basis by which employees shall select pass days. Clearly for those VRO's without a vacation to cover and thus relegated to various/ various, an assignment by the Planning Lieutenant has not allowed them to exercise this bargained seniority right.

Award:

1. The grievance is sustained.
2. The State violated Article 24.2 when it did not afford those Vacation Relief Officers not actually assigned a vacation relief slot an opportunity to select their pass days on the basis of seniority.
3. As a remedy, the matter is remanded to the local labor management process for those officers classified as various/ various.
4. The Arbitrator will retain jurisdiction for ninety (90) days following the date of this award.

Grid Consolidation Summary

Many facilities have begun consolidating chart grids, “crunching or compressing grids”, as it is commonly referred to. Several issues must be discussed regarding grid consolidations: 1. Job Ownership 2. What changes can be made to a job to achieve grid consolidations 3. When can a job be moved to another grid.

Plot plan posts/jobs are most commonly reflected on the facility charts as squads 1 through 5 (See example below). These jobs are posted, bid and awarded as outlined in the CBA. The successful bidder of a plot plan job retains rights to those pass days and permanent job and shift assignment. For example below, Officer Smith successfully bid on and was awarded A-1 Dorm, Job # 0001, 0700 shift and Squad 1.

	Post				Grid
Squad	Description	Shift	Post/Res#	Name	#
1	A-1 Dorm	700	0001	Smith	
2	A-2 Dorm	700	0002	Johnson	A
3	B-1 Dorm	700	0003	Williams	
4	B-2 Dorm	700	0004	Jones	
5	A-B Rover	700	0005	Rodriguez	
6	RDO	700	0006	Brown	
7	RDO	700	0007	Thomas	

RDO relief jobs are not permanent plot plan posts, and thus are reflected as RDO only posts in grids, usually designated as squads 6 and 7. Although these jobs are posted, bid and awarded through the contract process, Officers merely bid on and are awarded the RDO relief of designated squads, not posts, in a given grid. Squad 6 relieves whatever Officer posts are assigned to squads 1, 3 and 5 in a given grid, and squad 7 relieves officer posts assigned to squads 2, 4 and when squads 5 and 6 are off simultaneously in a given grid.

In the example above, Officer Brown successfully bid and was awarded the Squad 6 RDO Relief Job in Grid #A. Thus he covers whatever permanent posts appear in Squad 1, 3 and 5 in Grid A at any given time. Currently Officer Brown covers A-1 Dorm when Squad 1 is off; B-1 Dorm when squad 3 is off; and A-B Rover when squad 5 is off. However, he merely owns the right to provide reliefs for squads 1, 3 and 5 in Grid # A. He does not own the right to cover the particular posts assigned to grid A when he was awarded the RDO relief job.

Grid consolidations are achieved by abolishing jobs; changing the pass days of jobs in order to fill a vacancy in a grid; or simply moving jobs/posts from one grid to another to fill a vacancy. These moves can result in the elimination of grids which are no longer staffed, and especially RDO relief assignments.

DOCS has already abolished jobs through their “consolidation” plan, which has created holes in the chart grids at facilities. Thus, planning Lieutenants at the facility begin to find ways to move jobs from other partially filled grids to fill the vacancies that the abolished jobs create.

Points to remember:

1. When a post becomes vacant, the facility has seven (7) days to review and make any changes to the post they see fit, including squad and shift changes.
2. The standing policy from DOCS staffing is to not change the squad of a permanent post while the bid is held; unless the squad change is approved by the Union, and although approval from the bid holder is not required, it is strongly suggested.
3. The facility can move a permanent post job to any grid in the charts at any time as long as the pass days of the post remain the same as when the post was awarded.
4. Job descriptions can be changed at any time following notification and discussions with the Union, not just the bid holder. The facility does not require approval from the Union to ultimately make the changes, however, the facility is required to submit these changes to DOCS staffing so they can properly update the jobs hourly inventory.

- The requirement to repost a bid that is held but has “changed” is determined by local arrangement. Absent a local or past practice, DOCS and NYSCOPBA recognize that a “substantial change that would make a job much more or less appealing” can be established as a reason to repost a held bid. Again, local arrangements prevail.

A Grid Consolidation Example

Squad	Post Description	Shift	Post/Res#	Name	Grid #
1		Farm #1	Abolished	Barnes	L
2					
3		Farm #2	Abolished	Henderson	
4	Keeplock Rec # 3			Coleman	
5		Farm Escort	Abolished	Jenkins	
6		RDO	eliminated	Perry	
7	RDO			Powell	

In the above example, DOCS has abolished the permanent plot plan posts for the farm. Officers Barnes, Henderson and Jenkins have lost their bids, and have no seniority rights to bump another Officer out of a bid. Likewise, Officer Perry no longer has posts in the squads he normally relieves. Therefore his job will also be eliminated. Remember Officer Perry simply held the bid to provide relief for squads 1, 3 and 5 in Grid L. Since the jobs no longer exist in his grid, he no longer has a relief function.

However, in the same example, Officer Powell still provides a relief function when squads 2, 4 and 5/6 are on RDO. Since Keeplock Rec #3 is the only permanent post in Grid L, Officer Powell is resource when squad 2 is off, relieves Keeplock Rec #3 when squad 4 is off and is resource when squads 5/6 are off simultaneously.

If we take the same example shown, Grid L now has one permanent plot plan post and one Squad 7 RDO relief post. If the staffing office has a Squad 4 vacancy in an otherwise complete grid, they will most likely move Keeplock Rec #3 to that grid. Therefore Grid L will no longer have a permanent post, which means Officer Powell no longer has a job to relieve; thus Officer Powell’s relief job is eliminated. Remember Officer Powell held the squad 7 RDO relief bid in Grid L only. He does not hold the bid to relieve Keeplock Rec #3 if it appears in a different grid. In the end, the facility has correctly eliminated grid L, and have returned 2 RDO Relief officers back to the resource pool to use to offset staffing shortages.

Officer Coleman retains his bid although it is now located in a different grid. The squad 7 RDO relief officer in the grid that Keeplock Rec #3 is newly located to provides relief when Coleman is on RDO.

If in the example above, the facility needed to change the squad of Keeplock Rec #3, held by Officer Coleman, from a squad 4 to a squad 1 in order to fit it in another grid, the facility would require approval from the Union; and although approval from the bid holder is not required, it is strongly suggested. If the Union does not approve of the squad change, the facility will have to leave Keeplock Rec #3 in squad 4 of grid L until another squad 4 slot opens up, Coleman vacates his bid or the Union approves the change. If Keeplock Rec #3 remains in Grid L, Officer Powell retains his bid and provides relief as determined above.

Please contact the Staffing / Grievance department if you have questions regarding a specific grid crunching at your facility. If done incorrectly, these issues, which are often time sensitive, are best addressed through immediate discussions between the NYSCOPBA and facility Management or DOCS staffing, rather than through the grievance process.

STATE OF NEW YORK
VOLUNTARY LABOR TRIBUNAL

-----XXX

In the Matter of the Expedited Contract Arbitration Between:
The State of New York: DOCS
Riverview Correctional Facility [RCP]

-and-

TRIAGE EXPEDITED AWARD

Security Unit Employees - NYSCOPBA
RE: CO Leif Smithers
Case No: OER File No. 04-01-0988
CON 04-1130

-----XXX

Before Joel M. Douglas, Ph.D.
Master Arbitrator

Date: April 30, 2007

Pursuant to the Collective Bargaining Agreement (CBA) between the parties, and in accordance with the rules governing the TRIAGE process, the above stated grievance was heard by this undersigned Master Arbitrator.¹ A hearing was held in Albany, NY on March 9, 2007, during which time the State was represented by James Taylor, Esq., Assistant Counsel, Governor's Office of Employee Relations (GOER). The Union was represented by Edward J. Greene, Esq., Sheehan Greene Carraway Golderman & Jacques. This Opinion and Award are based on the record as thus constituted.

ISSUE

During the February 12, 2007-triage session the parties stipulated to the following issue:

1. Did the State of N.Y. (DOCS - Riverview C.F.) violate Article 24.2 of the Agreement in the manner in which it changed the Grievant's squad on or about October 4, 2004?
2. And, if so, what is the appropriate remedy consistent with the Agreement?

¹ This expedited arbitration decision is non-precedential, but may be considered instructive.

DISCUSSION OF THE ARBITRATOR

1. The Union argued that when the facility changed the Grievant's bid job from Squad Four to Three they violated the seniority provisions of Article 24.2 and thereby committed a contract violation. CO Smithers testified that at the time of the transfer there was Squad Four opening in the facility plot plan and that his removal and placement into Squad Three were done in direct contradiction to his contractual seniority rights. The State claims that Smithers' job was consolidated and Squad changed due to staff reduction and at the time of the modification there was no available Squad Four slot into which he could be moved.
2. Smithers testified as to his seniority and how he believed his contract rights were violated. He did however note that after the Squad change that he still worked the same job, had the same hours and duties, and that only his RDO had been changed. The record documents that the grievant [Smithers] has greater seniority then the Lobby Officer [Shaw] who requested and received a Squad change from Two to Four in order to accommodate his swap.²
3. Article 24.2 requires that seniority be used as the basis to select pass days. Within the DOCS framework pass days are regulated by squad assignments. Officer Smithers and Union Business Representative Randy Page testified that squad changes to facilitate "swap hook-ups" had been routinely denied at Riverview and that in 2004, when the aforementioned change was made, the Union met with facility management to explain to them how chart revisions could be made in order to accommodate the Union's need to preserve and protect seniority consistent with the facility goal of inmate reduction.
4. Page described the negotiations concerning Riverview downsizing. He noted that the bilateral meetings were often informal and attempted to minimize security staff job disruption. He testified that they related to job compression and were "not job-targeted" and that as result of the change from double bunking to single cells there was a loss of temporary Riverview jobs. The joint meetings occurred after the arrival of DSS Hessel in July of 2004 and were an attempt to eliminate certain grids and fill vacant slots. (See UX #1) In essence, the testimony of Page was that although the Union had some input into the squad changes, their role was minimal and that facility management did not want to hear of their proposed chart revisions.
5. DSS James Hessel testified that he was at Riverview at the time of the grievance and that he was sure that there were conversations with the Union during the downsizing period. His overall goal was to "better manage the resources" and that he sought input from the Union and DOCS Central Office. He stated that he made a "minimal amount of moves so as to affect all the staff and to make seniority a consideration in each grid." He noted that he tried to impact as few officers as possible and that he continued to respect seniority.
6. The State argued that due to facility downsizing charts that grids had to be modified and that the changes were based on their managerial prerogatives. They note that in an attempt to consolidate the charts that discussions were held with the Union and that no contract violations occurred. In sum the State argued that the staffing changes were necessitated by monetary, budget, and safety concerns and that it was unfortunate that certain officers were not pleased

² — The record documents that Officer Shaw is three years junior to Officer Smithers.

by the overall outcome. They submit that under the CBA that "right-sizing" is a prerogative reserved to State and there was no any Article 24.2 violation.

7. The Union seeks a finding that Smithers' seniority rights were violated when the facility unilaterally changed his bid Squad and awarded Squad Four to a less senior officer. They want a restoration to the *ante quo*, a return of Smithers to his prior Squad Four bid, and an order to conduct local Labor Management meetings to work out the chart revisions with the least negative impact.
8. The Union acknowledges that although changes in duties and shifts are not arbitrable that Squad changes are. They note that Officer Smithers had his bid job for more than ten years and that seniority is a paramount contract right. Although management claims that they met with the Union, it is the position of the Union that meetings were not held and that favoritism existed at Riverview. In sum the Union submits that management acted in bad faith and that when Officer Shaw requested his change, they bumped Smithers into a Squad Three slot.
9. The Union suggests that a reconvening of the facility Labor Management committee would be an appropriate forum to resolve these types of questions. They further note that in Step Three Appeal that Associate Director Hrachian notes that;

... the concern of the Officer [Smithers] in his ability to perform his job at the highest possible level is noted and appreciated. (See .1X #3, Hrachian letter dated December 16, 2004)

It should be noted that the Hrachian response was to an Article 24.3 and 27 grievance while the issue before the undersigned is limited to Article 24.2.

10. The record should reflect that the instant grievance "traveled" with *Hooper* [C 04-1129, OER Case # 04-01-1086.] In that matter Officer Hooper [Riverview] lost his RDO relief bid job when the facility developed a new consolidated plot plan. Pursuant to that plan staff were redeployed as certain jobs no longer existed. In his Step Three *Hooper* response Associate Director Hrachian wrote:

It should be noted that discussions in a local labor/management forum in advance of the action would have been appropriate. It is entirely possible that the Union or affected employees may have had constructive alternatives that the facility may have considered. Increased communication would have done no harm, and possible improved the situation. It is strongly recommended that such discussions take place in the future In advance of changes. (UX #3)

The Union insists that the Hrachian Step Three was also applicable to *Smithers* and that it should be controlling.

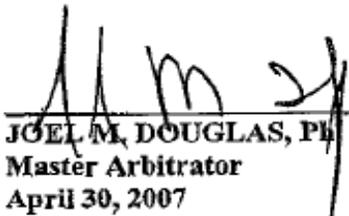
11. In terms of an Article 24.2 violation, the Union cites *CA Greene* in which the contract Arbitrator held that Article 24.2 "contains no caveat ...[and] that seniority exclusively

controls pass day selection."³ That position is credited but is distinguishable from the instant grievance.

12. It is the position of the Agency that at the time of the change in plot plans that no Squad four opening existed. ⁴ Thus, while Article 24.2 controls, at the time of the change the issue was not seniority bidding but one of chart consolidation. The new chart did not contain the Squad opening that Smithers sought and there was no contractual obligation on the part of the employer to modify the revised consolidated chart.
13. The Union's argument of greater input into the process, coupled with the admonition issued by Associate Director Hrachian in Hooper is noted and credited; however that does not require an order to return the Grievant to a position that he held nearly two and one half years ago and to reconstruct the process with the added benefit of hindsight. It appears that at the time of the plot plan consolidation the job that Smithers occupied was no longer carried in Squad Four and that the lobby officer had already been moved from Squad Two to Squad Four. Thus, there was no Squad Four opening to return Smithers to. Although I agree with Director Hrachian that the facility could have responded in a more communicative and symmetrical manner and perhaps paid greater heed to the proposals set forth by R. Page, there reluctance to do so in and by itself does not rise to the level of a contract violation.
14. Therefore, based on the record, and in accordance with the CBA, the undersigned Awards:

A W A R D

1. The grievance is denied.
2. The State of N.Y. (DOCS - Riverview C.F.) Did not violate Article 24.2 of the Agreement in the manner in which it changed the Grievant's squad on or about October 4, 2004.


JOEL M. DOUGLAS, Ph. D.
Master Arbitrator
April 30, 2007

³ See Opinion and Award dated C -98-1218 and 98-01-1325 etc Award dated December 27, 2003@p. 20.

⁴ It appears that at the time of the Squad change that Officer Smithers also had a change in his Job duties. The evolution the grievance detailed period when Smithers lost his job only to have it subsequently resorted. Although al his duties were eventually returned to him, the RDO were not.



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

GLENN S. GOORD
COMMISSIONER

LUCIEN J. LECLAIRE, JR.
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

August 18, 1999

Mr. James Littlefoot
Grievance Director
New York State Correctional Officers
& Police Benevolent Association
194 Washington Avenue
Albany, New York 12210

RECEIVED
AUG 19 1999
NYSCOPBA

Dear Mr. Littlefoot:

This is in response to your letter dated July 21, 1999, regarding clarification of portions of the Managing Security Overtime memorandum.

Plot plan documents and job descriptions must be accurate and reflect the actual operation of each facility. As such, Department managers continually review bid jobs to determine if the duties are still needed or should be modified. To the extent possible, the Department has agreed to modify or abolish posts as they become vacant. Therefore, a process was established that requires all Deputy Superintendents for Security Services to review, approve, and sign all jobs before a bid is reposted. The window for this review is seven (7) days.

A temporary post approval process was formalized as a result of a statewide meeting in April 1997. The process provides that all temporary posts be reviewed every six (6) months. If the activity cannot be abolished, absorbed by existing posts, or an offset identified, and must be covered for 30 days or more, a request may be submitted to Security Staffing for approval to create a temporary post. All approved temporary posts will be bid pursuant to the collective bargaining agreement. The exceptions are temporary posts for construction, outside hospital, or transportation. These functions should be evaluated daily; temporary assignment to them should not be routine.

I trust this response addresses your concerns.

Sincerely,

Lucien J. LeClaire, Jr.
Deputy Commissioner

cc: Kevin Breen, Assistant Commissioner



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING #2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

LUCIEN J. LECLAIRE, JR.
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

MEMORANDUM

TO: All Superintendents

FROM: Lucien J. Leclaire, Jr., Deputy Commissioner 

RE: Managing Security Resources and Overtime

DATE: February 17, 2010

As we prepare to begin a new fiscal year, our focus must remain steadfast to manage security staff resources and cut spending while safeguarding our institutions. The unprecedented fiscal climate in New York State demands that we all make every effort to operate our facilities as efficiently as possible.

Control of all funds is of the utmost importance. You have been given clear direction that security overtime must be limited to essential workload only. This does not mean shutting down critical posts to save money. It means that if you don't have the staff resources, you don't do the work unless it is mandated. You must evaluate all staff assignments, not just overtime use. Determine if additional service functions are essential and prioritize your security workload accordingly. Nonessential work should be canceled or postponed. Identify posts, or partial posts, that can be closed and redirect the staff to alleviate overtime or cover the work that must be performed without jeopardizing facility safety. Pay particular attention to trip start and return times. Time and attendance rules must be enforced to improve days worked and reduce the need for overtime.

The effective use of staff resources is the responsibility of you and your supervisors and is key to controlling overtime. As we move into the new fiscal year, tracking overtime by categories (sick leave, construction, etc.) will be closely monitored by Central Office. Superintendents should be looking at each category as well. Be aware of the number of officers allowed off per day to ensure it does not exceed the number established by your annual leave schedule provided by the Security Staffing Unit. Refer to your staff utilization monitoring report that is printed for you daily. We expect every superintendent, first deputy superintendent, deputy superintendent and uniformed supervisor to know their facility's plot plan and overtime status.

Under no circumstances should you make any local labor/management agreement that might create overtime situations. You are also reminded that no local agreement can be finalized unless approved by the Director of Labor Relations.

During 2009, staffing reviews have revealed that discrepancies still exist between the job descriptions and plot plans in many facilities. It is your responsibility to ensure that discrepancies are corrected and your facility is in compliance with our policy. If your resource pool does not meet the 50-25-25 distribution requirement, you must continue to work toward compliance through attrition.

Your authorized plot plan, post inventory documents and job descriptions are critical to the operation of this agency and are the basis for how security staff must be assigned in your facility. For this reason, these documents must be accurate and reflect the actual operation of your facility. You must follow your plot plan. No new programs or changes to a program that results in causing overtime or the creation of a new post is to be established without discussion with this office first. The modification of even a single post without considering its responsibilities within the overall plot plan can significantly impact the effectiveness of security in our institutions. In order to evaluate if existing posts still match your operation or require modification, job descriptions must be reviewed, signed and dated on an annual basis by the deputy superintendent for security or highest ranking security supervisor. **You may not modify jobs without approval of the Security Staffing Unit through the plot plan change form process. No changes may be implemented prior to approval.**

Your most important management tool is your ability to move staff. You must ensure that your staffing lieutenant accurately preplans the charts, balances shift and squad assignments for the chart period and reviews the chart on a daily basis to determine if adjustments must be made to meet your changing workload.

It is a priority that the captain closely supervises planning and chart functions on a daily basis as well as review and sign the daily SISU report. This responsibility includes continually evaluating how resources are used and tracked to determine if the workload is necessary. Discussions regarding efficient staff usage must occur with watch commanders and chart sergeants daily, as they play an integral role in this strategy. This can be accomplished, in part, by the captain's oversight of the required mid-shift review. This review must be documented in the watch commander's log per Directive #4008. Captains must also provide oversight of supervisor training and leave schedules to ensure no unnecessary overtime is incurred.

It has always been our policy that when a bid job becomes vacant, the duties must be reviewed prior to posting to determine if the function is still needed or should be modified. All deputy superintendents for security services are required to review, approve and sign all jobs prior to posting. This process should be completed within seven days. A record of the approval must be kept on the reverse side of the job description indicating the date the bid was approved for posting and the deputy superintendent's signature. All job descriptions must be available for review by the Security Staffing Unit.

You are not authorized to establish any temporary posts without approval from the Security Staffing Unit. Be very clear on this. A facility cannot create a bid job for any post that does not appear on your plot plan without our approval. There will be no unauthorized posts. Do not attempt to make deals or disguise unauthorized posts with creative charting.

Think carefully about temporary post requests before you submit them. Even if they have been previously approved, they will not be rubber-stamped. Each temporary post you create further depletes your resource pool. Look closely at your plot plan posts to determine if any portion of the existing coverage can be redirected. Temporary posts should be requested only when there is no other way to provide an essential routine function. Temporary posts for construction coverage may be requested only if the project is six months or more in duration and has actually started. Initial requests for temporary posts may be submitted as needed. Thereafter, they must be resubmitted on the January 1 and July 1 cycle. Questions regarding this process may be directed to Security Staffing.

We have made significant progress through our chart/staffing reviews. These reviews are a useful management tool to evaluate staff usage and post closures, while training hub managers in techniques to monitor and prioritize workload, improve staff usage and reduce overtime. These trained managers are a valuable resource to you and should be used to ensure compliance with review findings as well as train other staff.

I expect you to share this memorandum with your executive team and security supervisors. You must ensure they understand the practical application of this direction and you must charge them with carrying out these objectives. Frequent meetings between the deputy superintendent for security and security supervisors, with both positive and critical feedback, must occur. As we move into the next fiscal year, your continuing personal involvement in controlling overtime is critical. Remember, it is your responsibility to authorize every hour of overtime prior to its being expended and to limit the expenditure to only what is essential to maintain effective facility operations,

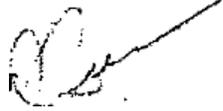


STATE OF NEW YORK
DEPARTMENT OF CORRECTIONS
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BRIAN FISCHER
COMMISSIONER

JOSEPH F. BELLNIER
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

MEMORANDUM

TO: All Superintendents
FROM: Joseph F. Bellnier, Deputy Commissioner 
SUBJECT: Managing Security Resources and Overtime
DATE: February 24, 2012

As we prepare to begin a new fiscal year, our focus must remain steadfast to manage security staff resources and cut spending while safeguarding our institutions. The unprecedented fiscal climate in New York State demands that we all make every effort to operate our facilities as efficiently as possible.

Control of all funds is of the utmost importance. You have been given clear direction that security overtime must be limited to essential workload only. This does not mean shutting down critical posts to save money. It means that if you don't have the staff resources, you don't do the work unless it is mandated. You must evaluate all staff assignments, not just overtime use. Determine if additional service functions are essential and prioritize your security workload accordingly. Nonessential work should be canceled or postponed. Identify posts, or partial posts, that can be closed and redirect the staff to alleviate/overtime or cover the work that must be performed without jeopardizing facility safety. Pay particular attention to trip start and return times. Time and attendance rules must be enforced to improve days worked and reduce the need for overtime.

The effective use of staff resources is the responsibility of you and your supervisors and is key to controlling overtime. As we move into the new fiscal year, tracking overtime by categories (sick leave, construction, etc.) will be closely monitored by Central Office. Superintendents should be looking at each category as well. Be aware of the number of officers allowed off per day to ensure it does not exceed the number established by your annual leave schedule provided by the Security Staffing Unit. Refer to your staff utilization monitoring report that is printed for you daily. I expect every superintendent, deputy superintendent, and uniformed supervisor to know their facility's plot plan and overtime status.

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Staffing reviews have revealed that discrepancies still exist between the job descriptions and plot plans in many facilities. It is your responsibility to ensure that discrepancies are corrected and your facility is in compliance with our policy. If your resource pool does not meet the 50-25-25 distribution requirement, you must continue to work toward compliance through attrition.

Your authorized plot plan, post inventory documents and Job descriptions are critical to the operation of this agency and are the basis for how security staff must be assigned in your facility. For this reason, these documents must be accurate and reflect the actual operation of your facility. You must follow your plot plan. No new programs or changes to a program that results in causing overtime or the creation of a new post is to be established without discussion with this office first. The modification of even a single post without considering its responsibilities within the overall plot plan can significantly impact the effectiveness of security in our institutions. In order to evaluate if existing posts still match your operation or require modification, job descriptions must be reviewed, signed and dated on an annual basis by the deputy superintendent for security or highest ranking security supervisor. You may not modify jobs without approval of the Security Staffing Unit through the plot plan change form process. No changes may be implemented prior to approval.

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I expect you to share this memorandum with your executive team and security supervisors. You must ensure they understand the practical application of this direction and you must charge them with carrying out these objectives. Frequent meetings between the deputy superintendent for security and security supervisors, with both positive and critical feedback, must occur. As we move into the next fiscal year, your continuing personal involvement in controlling overtime is critical. Remember, it is your responsibility to authorize every hour of overtime prior to its being expended and to limit the expenditure to only what is essential to maintain effective facility operations.

Vacation Process and Leave Days Earned (LDE)

1. Around June 1st — Albany DOCS Staffing issues the calculation sheets to the staffing Lt. at the facility for the upcoming vacation year. These sheets include the LDE form with seniority dates and how many days an officer with that seniority earns, and the formula sheet for computing LDE for Vacation and Incidental Schedules. In consideration is annual leave (vacation and personal) as well as Holiday leave.
2. The Lt. at the facility uses the sheets to calculate the LDE according to the number of COs at the facility on a given date. The facility choose to carve out certain job titles (FSO, WTO, TROs who may get their time off out of the Staffing or Dep's Office) as well as long term absences anticipated to be longer than six (6) months in duration.
3. The facility adjusts for those officers who take money instead of Holiday time (12 days).
4. The facility then arrives at a net LDE number (### Officers earn #### time annually as of this given date).
5. The Lt. then forwards this sheet to DOCS Staffing who constructs the LDE formula sheet. DOCS Staffing then forwards the LDE sheets to NYSCOPBA and Labor Relations.
6. NYSCOPBA then issues a letter, certified, to the CSS of the affected facility explaining that they can either accept DOCS Staffing's recommendation, or the can choose to restrict vacations in order to even out or provide more available incidental leave throughout the year. This decision must be made by September 1st in order to provide for annual bidding processes to take place.
7. If the Facility Sector chooses to accept Staffing's recommendation, no further action is required. However, it must be noted that the facility is held to that recommendation for the entire year.
8. If the Facility Sector chooses to restrict their vacations to affect their incidental leave, they must inform NYSCOPBA Staffing in writing of their wishes, so NYSCOPBA can enter into an Agency level Agreement to affect change on DOCS Staffing LDE Distribution.
9. After receiving notification from the Facility Sector, NYSCOPBA calculates allowable vacation and incidental leave changes and forwards these calculations to DOCS staffing for their approval. Upon DOCS Staffing approval, NYSCOPBA forwards agreements to Labor Relations for their signature and return. After receiving a signed copy of the agreement, NYSCOPBA forwards a copy to the Facility Sector for their records. These agreements are in effect for the entire following vacation distribution year.

FORM FOR COMPUTING TOTAL DAYS EARNED BY CORRECTION OFFICERS

TOTAL DAYS EARNED=

FACILITY:

YEAR STARTED	SENIORITY YEARS	AL DAYS EARNED	HOL + PL EARNED	DAYS EARNED PER CO	NUMBER OF CO'S	TOTAL DAYS EARNED
2008	0	13	17	30		
2007	1	14	17	31		
2006	2	15	17	32		
2005	3	16	17	33		
2004	4	17	17	34		
2003	5	18	17	35		
2002	6	19	17	36		
2001	7	20	17	37		
2000	8	20	17	37		
1999	9	20	17	37		
1998	10	20	17	37		
1997	11	20	17	37		
1996	12	20	17	37		
1995	13	20	17	37		
1894	14	20	17	37		
1993	15	20	17	37		
1992	16	20	17	37		
1991	17	20	17	37		
1990	18	20	17	37		
1989	19	20	17	37		
1988-84	20-24	21	17	38		
1983-79	25-29	22	17	39		
1978-74	30-34	23	17	40		
<1974	35+	24	17	41		

TOTAL

NOTE: Record only those officers that are participating in the leave schedule on this form.

The total number of officers must equal the number of officers reported on line #4, from the Formula for Computing Leave Days Earned form. The total days earned must equal the total days earned reported on line #5, from the Formula for Computing Leave Days Earned form.

Formula for Computing Leave Days Earned
For Vacation and Incidental Schedules

Facility: _____

Type of vacation schedule: _____

Total officers assigned to facility as of ____/____/____ _____ 1.

Number of officers not participating in the
vacation/incidental schedule: _____ 2.

List by job title:

Number of officers on long-term absence, not expected
to return for six months or more: _____ 3.

List by absence category:

Sub-total officers participating in schedule:
(subtract lines 2 and 3 from line 1) _____ 4.

Compute the total days earned for the number of officers on line 4 from the current seniority list.
Enter total days earned below:

Total days earned for officers participating in the schedule: _____ 5.

Number of days for holidays paid:
(officers paid times six holidays average) _____ 6.

Number of days for holidays off:
(officers off holidays times twelve) _____ 7.

Net total days earned:
(subtract lines 6 & 7 from line 5) _____ 8.

FORM FOR COMPUTING TOTAL DAYS EARNED BY CORRECTION OFFICERS

TOTAL DAYS EARNED=

~~4201~~ 4139

FACILITY:

TACONIC C. F.

YEAR STARTED	SENIORITY YEARS	AL DAYS EARNED	HOL + PL EARNED	DAYS EARNED PER CO	NUMBER OF CO'S	TOTAL DAYS EARNED
2008	0	13	17	30	0	0
2007	1	14	17	31	28 12	434
2006	2	15	17	32	10	320
2005	3	16	17	33	9	297
2004	4	17	17	34	24	816
2003	5	18	17	35	3	105
2002	6	19	17	36	4	144
2001	7	20	17	37	2	74
2000	8	20	17	37	5	185
1999	9	20	17	37	2	74
1998	10	20	17	37	3	111
1997	11	20	17	37	15	555
1996	12	20	17	37	5	185
1995	13	20	17	37	1	37
1994	14	20	17	37	5	185
1993	16	20	17	37	1	37
1992	16	20	17	37	1	37
1991	17	20	17	37	0	0
1990	18	20	17	37	2	74
1089	19	20	17	37	4	148
1988-84	20-24	21	17	38	9	342
1983-79	25-29	22	17	39	0	0
1978-74	30-34	23	17	40	0	0
<1974	35+	24	17	41	1	41

TOTAL

120	4201
118	4139

NOTE: Record only those officers that are participating in the leave schedule on this form.

The total number of officers must equal the number of officers reported on line #4, from the Formula for Computing Leave Days Earned form. The total days earned must equal the total days earned reported on line #5, from the Formula for Computing Leave Days Earned form.

Formula for Computing Leave Days Earned For Vacation and Incidental Schedules

Facility: TACONIC C.F.

Type of vacation schedule: B (3-2 Week Periods)

Total officers assigned to facility as of 06/19/08 132 1.

Number of officers not participating in the
vacation/incidental schedule: 4 2.

List by job title:

<u>FSO</u>	<u>TRO</u>
<u>WTO</u>	<u>TRO</u>
<u> </u>	<u> </u>

Number of officers on long-term absence, not expected
to return for six months or more: 8 3.

List by absence category:

<u>ADA</u>	<u>ADA</u>
<u>ADS</u>	<u>ADS</u>
<u>APS</u>	<u>APS</u>
<u>APS</u>	<u>AWC</u>

Sub-total officers participating in schedule:
(subtract lines 2 and 3 from line 1) 120 4.

Compute the total days earned for the number of officers on line 4 from the current seniority list.
Enter total days earned below:

Total days earned for officers participating in the schedule: 4201 5.

Number of days for holidays paid:
(officers paid times six holidays average) 17x6 102 6.

Number of days for holidays off:
(officers off holidays times twelve) 2x12 24 7.

Net total days earned:
(subtract lines 6 & 7 from line 5) 4075 8.

6/30/08
130

-4

-8

118

4139

-102

-0

24
4075
4037



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



REPOSTING (PROSPER) SUMMARY (updated 12/9/12)

The pre-planning period starts 8 days prior to when reliefs for scheduled vacations are made, but can not start less than 30 days prior to the charting period. (I.e., 8 days prior to when your charts are usually posted.)

Outside the Pre-Planning Period – Time turned in at least 15 days prior to the posting of charts. There must be 7 days prior to the beginning of the Pre-planning period in order to re-post and award turned in or un-bid vacation time outside the pre-planning period.

- Any amount of turned in or un-bid time will be reposted once (initial turn in) for all in facility to bid regardless of shift or squad.
- Only one or two weeks of turned in or un-bid time will be reposted up to 10 more times after the initial reposting.
- Turned in or un-bid time in less than a one or two week block will only be reposted for the initial reposting. After that it is gone.
- Reposted time will remain available for bid for 5 days and then awarded. If no one bids on the turned in or unbid time, it will be subsequently reposted for another 5 day period up to a total of 11 times (10 times after the initial reposting), and awarded where appropriate.
- When an Officer's successfully bids and is awarded a block of reposted vacation that includes their RDOs, the days on which the RDOs fall can not be turned in and reposted.

Inside the Pre-Planning Period – Time turned in less than 15 days prior to the posting of charts

- Any amount of turned in time will be reposted for bid for 5 days following the initial turn in and 3 days from 2nd turn in on, and only made available to those Officers in the same squad and shift as the Officer who last turned in the time.
- Turned in time will be reposted as many times as time will allow. In other words, as long as it can be reposted for five days if initial turn in and 3 days if multiple turn-in and awarded prior to the start date, it will be reposted.

NOTES

It is recommended that any amount of time less than one or two week blocks be turned in inside the planning period after the initial reposting.

Officers can submit multiple bids for the same reposted time. If multiple bids are received for reposted time, seniority will prevail for each available block of time.

An officer is not required to have enough time on the books to bid a vacation. The Officer is required to have enough time at the end of the previous pay period to take awarded vacation time. Days taken without proper accruals will result in LWOP.

Officers do not have to turn in time (exchange) in order to bid reposted vacation time.

The most difficult compliance issue with reposting is getting officers to turn in unwanted time to be reposted. Second, is being able to track what vacation time is being reposted and for how many times.

***Different scenarios will be treated different ways - - feel free to contact me regarding these scenarios.
Mike Marro – NYSCOPBA Staffing / Grievance 518-427-1551 Ext 253



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Sergeants Representative

Contact: **William Sellers**
(518) 427-1551 Ext. 266
(888) 484-7279 Ext. 266

Fax: (518) 426-1635

[Email: wsellers@nyscopba.org](mailto:wsellers@nyscopba.org)



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Steward Training for Sergeant Issues

Incidental Time off - When dealing with sergeant incidental time, it is important to keep in step with the Oneida decision where applicable. The Oneida decision was based on a practice of guaranteeing an incidental day, every day, without exception. The reason for this was due to a long standing practice. When the facility tried to impose an L/M agreement to stop the practice, or limit the availability of an incidental day, we were successful in stopping their attempts.

If your facility currently has a practice of allowing for guaranteed incidental time off (a minimum of one per day) and the administration attempts to change that practice to negatively effect the time off, you would file a grievance identifying the current practice and a violation of Article 14.1(d).

In cases where a Labor Management agreement is in place, no matter the duration of the agreement and the facility looks to change the agreement to reduce the incidental or vacation time, a grievance should be filed under Article 14 and 27. I have enclosed a form grievance for this situation, for your convenience. The focus of this type of grievance is strictly “unreasonable denial” and not of past practice. We have moved away from Art. 25 violations due to decisions out of Lyon Mountain and Washington that no longer leave Art. 25 an option.

I recommend that you do not enter into any new agreements reducing your availability of block vacation or incidental time off. Labor Management discussions are welcomed, but any concessions on incidental time off are discouraged. If they want to reduce, then file a grievance.

This in no way affects your agreements through Staffing regarding Correction Officer vacation and incidental time off. Our argument with the state is that the LDE (leave days earned formula) should not be imposed on sergeants because of their small numbers. To try to implement their formula, based on days earned, leaves for very little or no incidental time off for sergeants in many facilities.

Staffing (AWC) - I have had some discussions with stewards regarding practices at many facilities regarding staffing, overtime, post closings, etc. Many of the decisions by the AWC are based on orders that have been given to the sergeant from a higher ranking supervisor. If there comes a time at your facility where a sergeant is doing something contrary to local policy or the CBA and that direction was given to him/her by a supervisor, direct your concerns to the supervisor where the orders originated.

The AWC must follow the order he/she is given. If a violation has occurred because of that order, grieve the decision from the administrator (W/C, Capt., Dep, etc.). This will protect the sergeant from negative consequences and protect the member and/or member's rights that have been violated.

Post Closings- There has been some sergeant post closings or combining of duties at some locations. Currently, we do not have a backfilling agreement that covers sergeants. The agreement in place specifically covers correction officers. It is my intention to raise this issue at up-coming statewide L/M, however for now the only success that we have had is to have discussions at the local level to alleviate this problem. Continue to have a dialogue with your facilities when this occurs. Follow up with a grievance if the facility continues the practice unabated. All grievances in this area should be filed under Art. 22 & 27.

Probationary Terminations – When someone is terminated during their probationary evaluation period (losing their stripes), they have the right to a 4.5 exit interview. If this occurs at your facility, please notify me immediately and I will start the process to set up the interview. This is not a formal appeal process but an opportunity to tell your side of the story as to why you believe the demotion was unjust. The only other recourse other than this interview, which is rarely successful, is to show that the department did not follow its own directive (2219).

Section 63.1 of the Civil Service Law requires that original appointment to positions in the competitive class and interdepartmental promotions shall be for a probationary term. However, the Civil Service Commission may exercise jurisdiction in matters alleging procedural defects in the administration of the probationary process.

In other words, if the department fails to follow its evaluation policy and evidence can be shown in this regard, Civil Service can grant a re-instatement with a new evaluation period.



GRIEVANCE FORM

(Please Type or Print)

Revised: March 1, 2003

LOCAL Grievance Number: _____

Facility (or Agency): _____

Aggrieved Employee: _____

LOCAL Union Rep: Phone _____ Number/ext. _____

DO NOT WRITE IN THIS BOX
NYSOPBA Grievance Number: **CON** _____

Date Submitted: _____ Date of Occurrence: _____

Contract Article Violation(s): Article 14, Article 27 **STATEMENT OF FACTS:** On the _____
above date, my request for leave was denied. This denial is unreasonable and violates
article 14 because there are resources available to the facility to cover my leave. Further, I am permitted to accumulate
vacation leave under Article 14. By denying my request for time off, the facility is interfering with my ability to accumulate
and utilize vacation and/ or personal leave in violation of Article 14.

REMEDY SOUGHT: Cease and desist the practice of unreasonably denying leave consistent with Article 14 and its
arbitral precedent.

Aggrieved Employee's Signature: _____



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Legislative Department

Daniel Valente
NYSCOPBA Legislative Director
Office (518) 427-1551 Ext. 306
Fax (518) 426-1635
dvalente@nyscopba.org

Keith Jacques
Legislative Counsel / Lobbyist
Lippes, Mathias, Wexler, Friedman LLP
Office (518) 462-0110
Fax (518) 462-5260
kjacques@lippes.com

Legislative Department Overview

The legislative department at NYSCOPBA is comprised of a team including the Legislative Director, Legislative/Political Action Committee, NYSCOPBA attorneys and professional and highly regarded lobbyists. The legislative department is charged with carrying out the legislative agenda as determined by the stakeholders of the organization. The legislative team works in partnership with the Executive Board and the membership to ensure that NYSCOPBA members are properly represented before the legislative and executive branches of government. We utilize the legislative process to obtain legislation that supports our members' rights, working conditions, safety, wages, and all other areas of concern. The success of the legislative department is largely dependant on membership input and membership participation is of the utmost importance.

Each year, the NYSCOPBA legislative department drafts new legislation to be introduced, seeks Senate and Assembly sponsorships, and aggressively lobbies the legislature for the passage of our legislation. We then work to have our bills signed into law by the Executive. We continuously monitor legislative activity throughout the legislative session, and beyond, and issue memorandums in support or opposition, as needed. The legislative department is charged with membership education and training, preparing annual testimony for budget hearings, and maintaining a direct and continuous relationship with the New York State legislators.

Each year, thousands of bills are introduced to the legislature. Of those, only a small number are acted on, and even fewer pass both houses and are sent to the Governor to be signed into law or vetoed. Together, with our professional lobbyists, we have consistently shown results through the many bills that have been signed into law since the inception of NYSCOPBA. NYSCOPBA has made an undeniable impact on the legislative process and achieved our incredible results through membership participation, membership education and training, and the proper use of our financial resources. Our relationships with legislators are built on respect, honesty, and professionalism. We keep in direct contact with the legislators year-round and inform them of issues as they arise and work with them to address continuing concerns.

Membership participation is encouraged through a variety of activities. Members can participate in statewide seminars and trainings, lobby days, voter registration drives, and volunteer on campaigns throughout the state to support the candidates who support NYSCOPBA's initiatives. We encourage all members to contact their state legislators on a regular basis by calling, visiting, or writing letters to express your concerns and/or show your support. The legislative department can assist the members in setting up the meetings, introductions and talking points, and providing a wide-variety of useful information for political action purposes.

With the continuous attacks on public employees and the organizations that represent them, there is no better time to get involved. Membership participation is crucial to the success of our union. Our victories would not be possible without the support and participation of the membership. Get involved and make a difference for all of the NYSCOPBA members across the state. Keep up to date on the department's webpage at <http://www.nyscopba.org/legislative>

Political Action Contributions Policy & Procedures¹

- The NYSCOPBA PAC account shall be funded by the amount approved in the annual budget. The PAC Treasurer and Association Treasurer will see to it that this account complies with all State and Federal laws
- NYSCOPBA's President shall serve as the Political Action Fund Treasurer.
- Contributions to PAC's shall be by the PAC Treasurer only after consultation with the Association President, Executive Vice President, and Legislative Political Action Committee Chairperson and legislative Counsel. This does not preclude membership input. A report of such contributions shall be made at each scheduled meeting of the Executive Board, Legislative Political Action Committee meeting and Executive Assembly.
- Contributions are limited to statewide races; Governor, Lieutenant Governor, Comptroller, Attorney General; or State Senate, State Assembly, County Sheriff, County District Attorney or County Judge; or any Association member in good standing seeking political office.
- A Legislative Political Action committee report will be made at each regularly scheduled Executive Assembly that will include the balance in the NYSCOPBA PAC account, the amount of money deposited since last report, total expenditures since last report, and a year-to-date expenditure report.²
- Contributions to NYSCOPBA members running for political office shall be \$500 upon receipt of a written request and verification of their candidacy.³

Political Endorsements Policy & Procedures⁴

- Association endorsements shall be limited to statewide races; Governor, Lieutenant Governor, Comptroller, Attorney General; or State Senate, State Assembly, County Sheriff, County District Attorney or County Judge; or any Association member in good standing seeking political office.
- Candidates seeking the Association's endorsement will be evaluated based on the criteria including, but not limited to past political performance; voting record, if an incumbent;

¹ Adopted by NYSCOPBA's Executive Assembly on October 4, 2006

² Amended by motion at Executive Assembly on August 8, 2012

³ Increased from \$250 by motion to amend at Executive Assembly on December, 11, 2013

⁴ Amended by motion at Executive Assembly on October 12, 2016

record of support or opposition to the needs of the association; and/or the interest of that candidate in having NYSCOPBA's endorsement.

- Association sectors are not permitted to endorse candidates.
- When a request for an endorsement for political office is received by the Association, the request shall be put before the Legislative/PAC Committee for consideration of an Association endorsement. The Committee's recommendation shall be put before the Executive Board for further consideration.
- If the Executive Board determines that an endorsement is warranted, a poll of the Association's affected membership will be conducted in accordance with Article IV, Reservation of Members' Rights of the Association's Constitution.

In the event that the Association conducts a poll for the endorsement of a candidate for political office, such poll shall be conducted by the Election Committee of NYSCOPBA. The count of the endorsement poll shall be open for viewing to any member of NYSCOPBA in good standing.

Attendance at Political Fundraisers Policy and Procedures

- Attendance at political fundraisers by NYSCOPBA officers, officials, employees, and members acting as agents of NYSCOPBA shall be coordinated by the Legislative Director or the Association President. The legislative Director shall consult with the appropriate elected officials and Legislative Political Action Chairperson when coordinating attendance at these events.
- All NYSCOPBA attendees will present themselves and their issues in a manner which is conducive with that of the Association's legislative agenda and overall mission and purpose.



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**RETIREMENT
DISABILITY RETIREMENT
RETIREE CHAPTER**

Contact: **Bill Naylor**

1-518-427-1551 Ext. 257

1-888-484-7279 Ext. 257

Fax: 1-518-426-1635

[E-mail: wnaylor@nyscopba.org](mailto:wnaylor@nyscopba.org)



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**RETIREMENT
DISABILITY RETIREMENT
RETIREE CHAPTER**

- **NYSCOPBA Retirement Benefits**
- **Retirement Process**
- **Retirement Basics Brochures**
- **Continuing Health Insurance**
- **Disability Retirement Basic Questions and Contacts**
- **NYSCOPBA Disability Retirement Cover letter**
- **Disability Retirement Process**

What NYSCOPBA benefits are available to me when I retire?

NYSCOPBA is dedicated to providing our retired members with continued benefits. Therefore, a Retirement Chapter was established and offers the following benefits:

- **Free one year membership in the Retiree Chapter** – Upon retirement, all NYSCOPBA members will receive a one-year membership in the Retiree Chapter at no charge. At the end of the first year, membership is \$25.00 per year by mandatory pension deduction.
- \$20,000 life insurance policy (Regardless of age)
- Retirement Award of \$10/year of service
- A personalized plaque to honor your dedicated years of service
- Membership e-mailings, including the NYSCOPBA newsletter, *The Independent*
- Support for all aspects of the retirement process
- Dependent Scholarship eligibility
- Optional dental, vision, home, auto and personal insurance at group rates
- \$100 Vision reimbursement benefit through Norvest Financial Services
- Discount Vision Care Plan administered through Davis Vision



HOW TO

RETIRE

For NYSCOPBA Members

This checklist will help guide you through the retirement process.

Step 1

Request a general estimate 12-18 months before you retire to determine the approximate amount of pension you can expect to receive monthly.

- Form RS6030.**

Step 2

➔ After receiving your estimate from retirement, schedule an account checkup with deferred comp or meet with your financial advisor.

Step 3

➔ **Request a Retirement Packet from NYSCOPBA:**
518-427-1551 ext. 225 or 257
retirement@nyscopba.org

Step 4

File for retirement (All forms are in the NYSCOPBA Retirement packet.)
Submit the following applications to NYSLRS, 110 State St Albany, NY 12244-0001:

- Form RS6037** - Application for Retirement, along with proof of your birth date, at least 15 but not more than 90 days prior to your date of retirement.
- Form RS6399** - Options Election
- Form RS6370** - Direct Deposit
- Form W-4P** - Federal Withholdings. Use the OSC tax calculator to help you determine how much you should have withheld from your retirement benefit.

Step 5

Before your last day on the payroll, meet with your Health Benefits Administrator to:

- File Form PS404.** Choose if you want to continue or defer your health insurance coverage as a retiree. You must decide no later than your last day on the payroll.
- File Forms PS406.2** (Defer Health Ins. Coverage) and **PS410** (Sick Leave Credit Preservation) if you choose to defer. You must have other health insurance coverage, for example through your spouse's/domestic partner's employer or through post-retirement employment.
- File Form PS405.** Choose if you want single or dual annuitant sick leave credit. You must decide no later than your last day on the payroll and if you choose it, you may not discontinue it later.
- File Form RS6355** - Survivors Benefit Program.

Step 6

- ➔ **Return your Badge, Employees manual and uniforms on your last day on payroll.** At this time, your facility personnel office should ensure your health insurance forms are correct and submitted. They should also issue your retirement badge (if applicable).

Step 7

Choose if you wish to continue Dental or Vision coverage after retiring.

- COBRA:** You have 60 days from the day you retire to sign up for COBRA dental or vision.
- Direct pay Emblemhealth: 60 days from retiring to enroll.
- NYSCOPBA Sponsored Dental or vision: 30 days from retiring to enroll.

Step 8

New York State Deferred Compensation Plan to:

- Use up to \$3,000 of your Deferred Comp to offset your health insurance costs.** Submit the Public Safety Officer Insurance Premium Payment Authorization Form and a copy of your first health insurance bill. to use up to \$3,000 of your Deferred Comp to offset your health insurance costs.
- Choose a payout option that fits your needs.**
NOTE: The earliest you can begin making withdrawals is 45 days following separation of service.
- Decide when you want to take distributions.** The Plan does not require you to begin benefit payments until you are age 70 1/2, and separated from state service. After April 1 of the calendar year in which you reach age 70 1/2, the IRS requires you to take a minimum distribution or pay a penalty of 50% of the amount that was not withdrawn as required.
- To begin receiving distributions:** Call the HELPLINE at 800-422-8463 and request a Benefit Distribution Packet. Confirm that your beneficiary information is up-to-date.

Step 9

- ➔ **Apply for Social Security.** Contact Social Security if you are 62 and plan to retire or if you are within three months of 65, even if you don't plan to retire.
- Medicare**
 - If you are receiving Social Security benefits for 24 months you will be sent Medicare information.
 - If you are not receiving benefits, apply three months before your 65th birthday. Call Social Security to apply.
 - As a retired NYS employee, you must enroll in both **Parts A & B ONLY** when you become eligible for Medicare. NYS will reimburse you for the cost of Part B.

The NYSCOPBA Retirement Department compiled this Checklist using information taken from the Work-Life Services Checklist. You may find this Checklist along with the 11 chapter Self-Help Guide to Pre-Retirement at www.worklife.ny.gov





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Revised 5/24/2017

NYSCOPBA Member:

Congratulations on your retirement! You will find information and reference to several forms below that may assist you with getting your retirement started. We hope you find this information useful and are here to help you should you need assistance filling out the forms or understanding the information provided. Below is a summary of what is included:

Application for NYSCOPBA's Retirement Chapter: This application can be used to update your contact information, order a service plaque, request a service award, designate your beneficiary for the free \$20,000 life insurance benefit and sign you up for the Retiree Chapter dues deductions from your pension check. Chapter dues are free the first year and \$25/year thereafter. After your free year, Retiree Chapter dues of \$2.08 will be deducted from each monthly pension check.

OSC Form 6037 - Application for Service Retirement: Use this form to apply for a standard retirement. **Do not send form to NYSCOPBA. It must be sent to the NYS & Local Retirement System by certified mail.** *(Not needed if you have already retired)*

OSC Form 6399 - Retirement Election Form for Tier 3, 4, 5 & 6: Use this form to select your retirement option (single life, joint, etc.). **Do not send form to NYSCOPBA. It must be sent to the NYS & Local Retirement System by certified mail.** *(Not needed if you have already retired)*

OSC Form 6370 - EFT Direct Deposit Enrollment Application: Use this form to apply for Direct Deposit. **Do not send form to NYSCOPBA. It must be sent to the NYS & Local Retirement System by certified mail.** *(Not needed if you have already retired)*

OSC Form W-4P - Withholding Certificate for Pension: Use this form to set up Federal withholdings. **Do not send form to NYSCOPBA. It must be sent to the NYS & Local Retirement System by certified mail.** *(Not needed if you have already retired)*

Dental Options in Retirement: COBRA (through the State), Direct Pay (directly through EmblemHealth), Norvest Dental Plans (by pension deduction through the Retiree Chapter)

Vision Options in Retirement: COBRA (through the State), Davis Vision Discount (for you and your dependents), Norvest VSP & \$100 Eyeglass/Contacts Reimbursement Program (exclusively for Chapter Members).

NYS Deferred Compensation Plan Insurance Premium Payment Authorization Form: Use this form to have your retiree health insurance premiums deducted directly from your deferred compensation account. By paying for your insurance premiums from your deferred compensation account, you are using before tax money to pay the premiums. Consult with a tax professional regarding your eligibility for this program.

IRS Publication 575- Insurance Premiums for Retired Public Safety Officers: Some members may be able to deduct up to \$3,000 used to pay for health insurance, accident insurance or long-term care insurance from their income taxes. Consult with a tax professional to see if you qualify for this benefit.

Life Insurance Options in Retirement: You can port or convert the \$30,000 group term policy (free to all active NYSCOPBA members), and the Norvest Financial Services optional group term life insurance policy (these were by payroll deduction) IF you chose to participate as an active member. Retiree Chapter membership includes a group term life policy valued at \$20,000 to all Retiree members at no cost to the member.

Helpful contact information for retirees- The following document contains important phone numbers, fax numbers, email addresses and web addresses.

NYSCOPBA Retirement Department

retirement@nyscopba.org

Bill Naylor x 257

Michelle Allen x225



New York State Correctional Officers & Police Benevolent Association, Inc.

www.nyscopba.org - retirement@nyscopba.org



Retiree Chapter (and Employees) Helpful Contacts

<p>NYS Employees Retirement System (Pensions, Calculations, COLA) (518) 474-7736 or (866) 805-0990 110 State Street, Albany, NY 12244 Online Account- https://portal.osc.state.ny.us/ www.osc.state.ny.us</p> <p>NYS Department of Civil Service (Employee Health, Dental and Vision, Retiree Health & COBRA Vision & Dental) (518) 457-5754 or (800) 833-4344 Fax (518) 485-5590 Employee Benefits Division Albany, NY 12239 pio@cs.ny.gov www.cs.state.ny.us</p> <p>Empire Plan PO Box 1600, Kingston, NY 12402 (877) 769-7447</p> <p>GHI/EmblemHealth- Dental (Employees Dental, COBRA, Direct pay for Retirees) www.emblemhealth.com/ (800) 947-0101</p> <p>Davis Vision- (Employees Vision, COBRA, Chapter Discount Program) (800) 283-9374 www.davisvision.com</p>	<p>Social Security Administration (Social Security, SS Disability) (800) 772-1213 www.ssa.gov</p> <p>Medicare (800) 633-4227 (Federal Health insurance for 65 and older, Disabled) www.medicare.gov</p> <p>Norvest Financial- (Life Insurance, Retiree Chapter Dental and Vision Discount Plan) (888) 869-8252 www.norvest.net</p> <p>AFLAC (Employees optional injury/illness ins.) (800) 366-3436 www.aflacny.com</p> <p>Liberty Mutual- Auto/Home (Optional Auto/Home) (800) 225-8281 www.libertymutual.com</p> <p>MetLife – Auto/Home (Optional Auto/Home) 877491-5087 www.metlife.com/mybenefits%20today</p>	<p>NYS Deferred Compensation (800) 422-8463 www.nysdcp.com</p> <p>AARP (888) 687-2277 member@aarp.org - www.aarp.org</p> <p>Retired Public Employees Association (518) 869-2542 or (800) 726-7732 www.rpea.org</p> <p>NYS Bar Association (Attorney Referral) (800) 342-3661 - fax (518) 463-5993 lrs@nysba.org - www.nysba.org</p> <p>U.S. Department of Veteran Affairs (800) 827-1000 www.va.gov</p> <p>NYS Division of Veteran Affairs (518) 474-6114 or (888) 838-7697 www.veterans.state.ny.us</p> <p>Working Advantage (Discounts for Employees and Retirees) 800.565.3712 http://www.workingadvantage.com/ Click on "Register", "Employees", enter ID# 970929129. Flyer on our web site</p>
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NYS Retirement System Direct Dial Phone Numbers

Call Center	518.474.7736	Call Center	866.805.0990
Fax	518.402.4433	Arrears (reg # ending in 00 - 49)	518.474.4913
Arrears (reg # ending in 50 - 99)	518.474.8542	Arrears Payment	518.474.2987
Beneficiary Changes	518.474.3186	Deaths	518.474.7502
Deaths	518.474.6570	Disability	518.474.7736
Disability in Process	518.474.2078	Estimates	518.474.5369
Excess Contributions	518.474.7621	Loan Overpayments	518.474.7621
Loans	518.474.4608	Loan Information	518.474.7736
Membership Applications	518.474.3524	Retirement in Process	518.474.2608
Tier Reinstatement	518.474.1926	Tier Reinstatement	518.474.8482
Transfer of Membership	518.474.2602	Withdrawal	518.474.3502
		Pension Checks	518.474.4449
		Recalculations	518.486.5810
Pension payroll	518.474.5400	Pension service	518.474.7736

NYS Retirement System FAX Numbers

Service Retirement	518.402.2498	Member Documents	518.474.9438
Disability App. In Process	518.474.3091	Disability Retirees	518.408.3766
FOIL Requests	518.473.8940	General Fax	518.402.4433

NYS Retirement System Email Addresses & Web sites

Hearings	hearings@osc.state.ny.us	Secure Web Email Form	www.osc.state.ny.us/retire/index.php
Facebook	www.facebook.com/nyslrs	Blog	www.nyretirementnews.com
Twitter	www.twitter.com/nyslrs	Military Service Unit	msunit@osc.state.ny.us
General Email	nyslrsinfo@osc.state.ny.us	Matrimonial Bureau	dro@osc.state.ny.us

When contacting the NYS Retirement System by phone, expect to spend considerable time on hold. Consider sending your questions with the [Secure Web Email Form](#) (best, web address above) or fax the number above (be sure to include your name, retirement number, your contact information your detailed questions and your social security number). Mail pension or other changes by certified, return receipt, to the New York State and Local Retirement System, 110 State Street, Albany, NY 12244-0001.

When contacting NYS Civil Service by phone, expect to spend considerable time on hold. Consider sending your general questions [to pio@cs.ny.gov](mailto:pio@cs.ny.gov) (be sure to include your name, retirement number, your contact information your detailed questions and your social security number). Mail health, dental, vision and COBRA changes certified, return receipt to the New York State Civil Service, Employee Benefits Division, Albany, NY 12239 (no street address is correct).

TIER 6

Contribution

First 3 years % based on annual wage. After 3 years % based on actual reported earnings from previous 2 years. Contribution % increases as reported earnings increase.

Ordinary Retirement:

25 years or more. FAS based on highest 60 months. If the earnings in any year included in the FAS period exceed the average of the previous 4 years by more than 10%, the amount in excess of 10% is excluded from your FAS. Lump sum vacation pay cannot be included in FAS.

Vested Benefit

10 years to be vested. Full benefit at age 63. Age 63 or older with 20 yrs. or more 2% per year. Age 63 or older with less than 20 yrs. 1.66% per year. Reduced benefit if taken between ages 55 and 62. All based on FAS at time you leave service.

Ordinary Disability (507-A)

Same as Tier 3.

Performance of Duty Disability (507-B)

Same as Tier 3.

What Tier Are You In?

If you are an ERS Member...

You are in:	If you joined:
Tier 1	before July 1, 1973
Tier 2	July 1, 1973 through July 26, 1976
Tier 3	July 27, 1976 through Dec. 31, 2009
Tier 5	Jan. 1, 2010 through March 31, 2012
Tier 6	April 1, 2012 or after

For specific information refer to the New York State Retirement Brochure.

Regular retirement, ordinary disability, and performance of duty disability retirement can be filed simultaneously. You will receive the greater benefit of those approved, if filed "without prejudice".

Cost-of-Living Adjustment

→ Eligible to receive 50% of the previous years annual rate of inflation, never less than 1% or more than 3%.

→ Adjustment percentage only applied to the first \$18,000 of your Single Life Allowance.

→ Eligibility:

- age 62 or older and retired for 5 or more years, or
- age 55 and retired for 10 or more years, or
- receiving a Disability Pension for 5 or more years.

Retirement Basics

ARTICLE 14

Correction Officers & Sergeants



TIER 3

Contribution

3% of reported earnings for first 10 years only.

Ordinary Retirement

25 years or more. FAS based on highest 36 months. If the earnings in any year included in the FAS period exceed the average of the previous two years by more than 10%, the amount in excess of 10% is excluded from your FAS. Can include lump sum vacation pay (240 hours).

Vested Benefit

5 years to be vested. Full benefit at age 62. Age 62 or older with 20 yrs. or more 2% per year. Age 62 or older with less than 20 yrs. 1.66% per year. Reduced benefit if taken between ages 55 and 61. All based on FAS at time you leave service.

Ordinary Disability (507-A)

Must have at least 10 years of service UNLESS disability results from an on-the-job accident, not due to your own willful negligence. Benefit is 1.66% of FAS but not more than 1/3 of your FAS. Eligible for COLA increases. Must be filed while active, within 3 months of being on the payroll or within 12 months of termination, while on authorized medical leave or while receiving workers comp. benefits at time of termination.

Performance of Duty Disability (507-B)

No service requirement. Eligible if you are permanently disabled from performing your duties due to being injured as a result of any act of an inmate or person, confined under the jurisdiction of DOCCS or OMH or contract HIV, TB or Hepatitis as a result of performing your duties or contract heart disease. However, heart disease has to be proven by passing an entrance physical that failed to reveal any evidence of heart disease and presumed that the heart disease was contracted in performance of duties unless disproved by competent evidence. (family history, history of smoking, excessive alcohol use, etc.). Can be filed prior to or after leaving service with the exception of heart disease which must be filed while still employed. Must apply for workers comp. Benefit can be reduced by amount of comp. benefits you receive. Benefit is 75% of FAS.



TIER 5

Contribution

3% of reported earnings until retirement or 30 years, whichever comes first.

Ordinary Retirement

25 years or more. FAS based on highest 36 months. If the earnings in any year included in the FAS period exceed the average of the previous two years by more than 10%, the amount in excess of 10% is excluded from your FAS. Can include lump sum vacation pay (240 hours).

Vested Benefit

10 years to be vested. Full benefit at age 62. Age 62 or older with 20 yrs. or more 2% per year. Age 62 or older with less than 20 yrs. 1.66% per year. Reduced benefit if taken between ages 55 and 61. All based on FAS at time you leave service.

Ordinary Disability (507-A)

Same as Tier 3.

Performance of Duty Disability (507-B)

Same as Tier 3.

Excerpt from NYSHIP General Information Book; Continuing Health Insurance Coverage When You Retire

Re-enrolling as a retiree

After you retire, you may cancel coverage, then re-enroll. Under most circumstances you will be subject to a waiting period before your coverage again becomes effective. Any sick leave credits will be maintained on your record until you reactivate your enrollment. (Also see Deferred Health Insurance Coverage.)

Disability retirement

Ordinary disability retirement: For an ordinary (not work-related) disability retirement, the age requirement is waived, but you must meet the minimum service requirement.

Work-related disability retirement: For a disability retirement resulting from a work-related illness or injury, the age requirement and the minimum service requirement are waived.

To maintain NYSHIP eligibility, you must continue your health insurance coverage while you wait for the decision on your disability retirement. If you do not continue coverage or if you fail to make the required payments while on leave or in vestee status, coverage for you and your dependents will end. Coverage may end permanently. If your disability retirement is not approved, you will not be eligible to re-enroll in NYSHIP.

Deadline: If you have not continued your coverage and a retroactive retirement is granted, call the Employee Benefits Division right away at 518-457-5754 (Albany area) or 1-800-833-4344 to ask about reinstating coverage. Call as soon as you have the decision on your disability retirement. You must apply in writing for reinstatement of your NYSHIP coverage within one year of the date on the letter from your retirement system announcing the decision to grant your disability retirement. If coverage is reinstated due to your receipt of a disability retirement, you will be required to pay any missed premiums based upon the last coverage in effect from the date your coverage terminated until the date your coverage would have ended, if your retirement had been granted on a timely basis.

If you receive an ordinary disability retirement, the effective date of your coverage will follow a three-month late enrollment waiting period based on the date of your application.

If you receive a work-related disability retirement, you may choose your effective date of coverage to be based on your date of retirement or on a current basis.

How you pay

When you retire, you will pay your share of the health insurance premium through deductions from your monthly State pension check or by making monthly payments directly to the Employee Benefits Division. It may take several months for the Employee Benefits Division to receive the Retirement Number assigned to you by the Retirement System in order to begin taking monthly health insurance deductions from your pension. Meanwhile, you will be billed directly each month for your share of the premium. Be prepared to make these payments each month until pension deductions begin.

Sick leave credits

You may be entitled to use the value of your accumulated unused sick leave to offset all or part of the cost of your health insurance during retirement whether you are in the Empire Plan or an HMO. This will not affect the value of your sick leave for pension purposes.

DISABILITY RETIREMENT

1. Was your disability/injury inmate related? Is your disability/injury job/work related? Is it related to heart disease? A written statement from the employee's Physician/Cardiologist stating that the stress of the job or injury was a competent (capable of) producing cause of the ailment will be needed.
2. Is your disability/injury permanent?
3. Does your physician/doctor feel you can or cannot return to work and perform your duties?
4. Are you currently working? If not, how long have you been out of work? Did you file for Workers' Compensation (if job related) or Social Security Benefits?
5. Do you have medical proof/documentation as evidence?

It is your individual responsibility to file the initial disability application. NYSCOPBA cannot make any decisions or recommendations concerning your status.

> *File for Disability Retirement (518) 474-7736 or (866) 805-0990*

> *File for Workers' Compensation (518) 632-4996*

> *File for Social Security (800) 772-1213*

If you are denied and you would like guidance, NYSCOPBA's Retirement Specialist will need the following information for our attorneys to review:

- > *Copies of all Retirement Applications filed;*
- > *Copies of all Medical records from treating physicians and hospitals;*
- > *Copies of all Incident Reports filed where there is a claim of a Performance of Duty or Accidental Disability;*
- > *Copies of all Workers' Compensation Medical records;*
- > *Copies of the Retirement System's Examining Physician's Report; and*
- > *Copies of all Social Security Findings if an Application has been filed for Social Security Disability.*



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd., Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



MEMORANDUM

TO: NYSOPBA Member
FROM: Bill Naylor, Retirement Department
RE: Disability Retirement

A variety of disability retirement plans are available for employees who are permanently incapacitated for the performance of their position and meet the other eligibility requirements for the particular benefit sought. All of the plans require *permanent disability*, which is a permanent inability to perform the tasks for which you are employed. The Retirement System is not generous in awarding these benefits and will likely contest the issue of permanent disability. Before applying, you should discuss your medical condition with your treating physician. If your physician does not believe your medical condition substantiates your inability to perform your job/duties, your application will be rejected.

A multitude of factors impact your right to benefits, including your date of entry into service and the manner in which your medical condition arose. For specific information on eligibility requirements and benefits, you should refer to the appropriate Summary Plan Description Booklet for your Tier. For additional information, you can also call the Retirement System at (518) 474-7736 or (866) 805-0990.

For your convenience, NYSOPBA will provide you with applications for disability retirement, as well as other general information about retirement benefits. It is *your responsibility* to complete the appropriate application(s) and file by certified mail, return receipt requested with the New York State & Local Retirement System (Attn: Disability Unit). The Retirement System's address is on the retirement application. When filing for disability retirement, the Retirement System recommends that you complete an application for each disability program available for your Tier (for example: you could possibly qualify for an ordinary disability, but may not meet the eligibility requirements for a three-quarter (3/4) disability retirement). Be sure to write "Filing without prejudice" at the top of all applications if you are filing multiple applications.

You should also complete a retirement option selection at the time of application as well as a beneficiary form. You will be given an opportunity to change your option selection if and when your application is approved and you receive an estimate of your retirement benefit.

The Retirement System is not bound by a determination of the Workers' Compensation Board. However, if you are applying for disability retirement, it is recommended that you apply for Workers' Compensation Benefits for job related injuries (including Chapter 653 Heart Disability). You should also file for Social Security benefits, as certain disability retirements require a favorable Social Security determination for eligibility. If you fail to apply for these benefits, your retirement allowance may, depending on which disability retirement you are eligible for, be reduced by the full amount of your Workers' Compensation benefits received or those that you would have been entitled to. If you have any questions regarding Workers' Compensation benefits, you should contact the New York State Workers' Compensation Board at (518) 474-6674. For questions regarding your Social Security Benefits; call the Social Security Administration at (800) 772-1213.

If you intend to file a disability retirement, it is recommended that you file your application(s) **while you are still on the payroll** (some benefits must be applied for within ninety (90) days of the date you were last on the payroll). A timely filing may minimize the financial hardship you may encounter during the time it takes to process your application(s). If the System contests your eligibility for disability retirement, the process may take more than a year. Be advised that pursuant to the Civil Service Law, an employee who has been on leave of absence resulting from an injury may be terminated after a cumulative one year has lapsed. Employees separated from Civil Service **due to on the job assault** are entitled to a leave of absence of two years.

Enclosures:

Tier 1 & 2 Disability Applications:

- u Ordinary (Form RS6038)
- u Accidental (Form RS6047)

Tier 3, 4, 5, 6 Disability Applications:

- u Ordinary (506) & Accidental (507) - Form RS6411 (*Available for CO and SHTA Tier 3 members ONLY and anyone who joined the Retirement System before September 1, 1983*)
- u Ordinary (507A) - Form RS6409 (*CO and SHTA's ONLY*)
- u Ordinary (605) - Form RS6340 (*Article 15 Tier 3 through 6*)

All Tiers Performance of Duty:

- u Performance of Duty (507B) - Form RS6047-A (*Heart Related, Inmate Related, HIV, TB*)

Option Selection

- u RS6399 (Options Election Form)

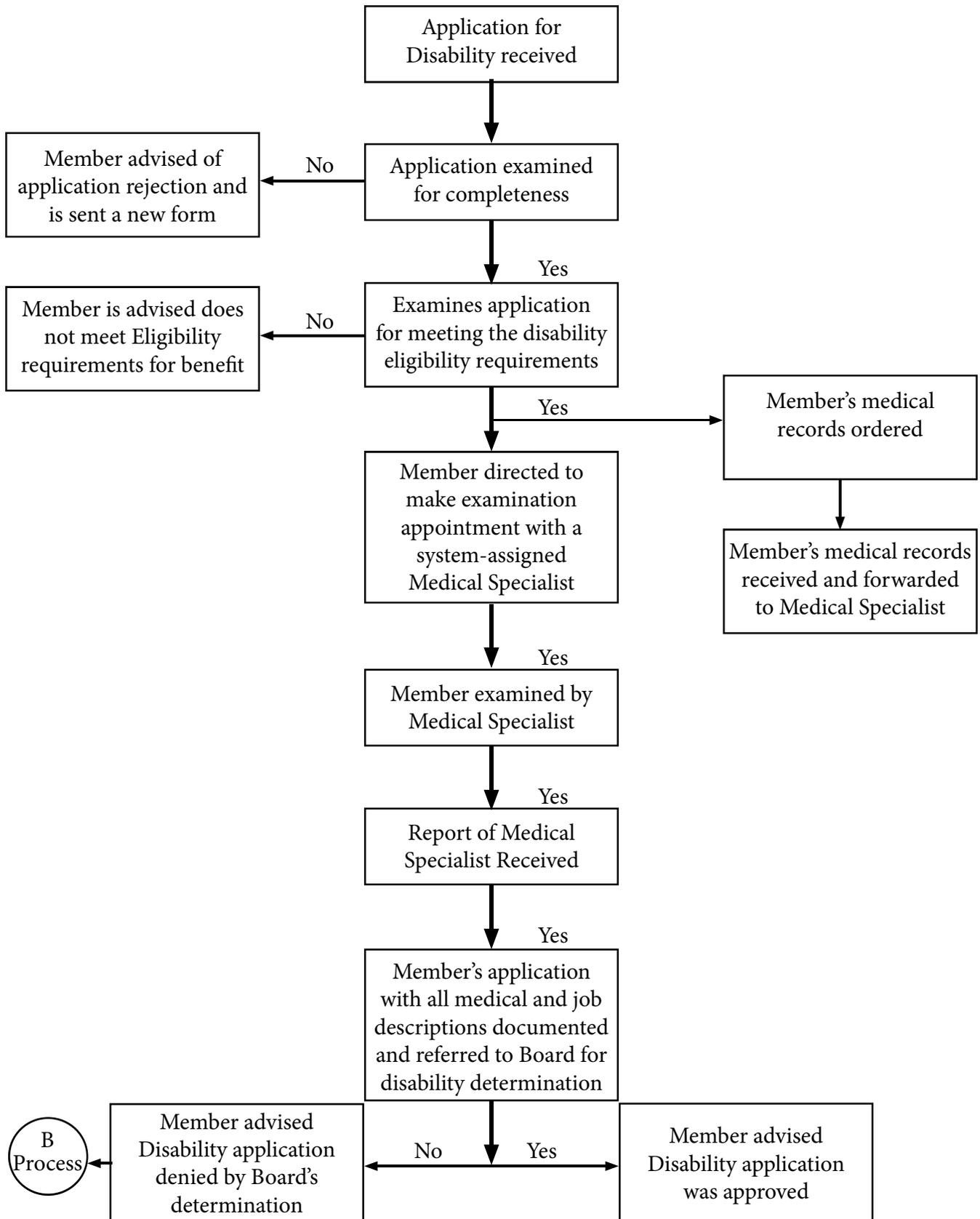
Beneficiary Form

- u RS5127 (Beneficiary Election Form)

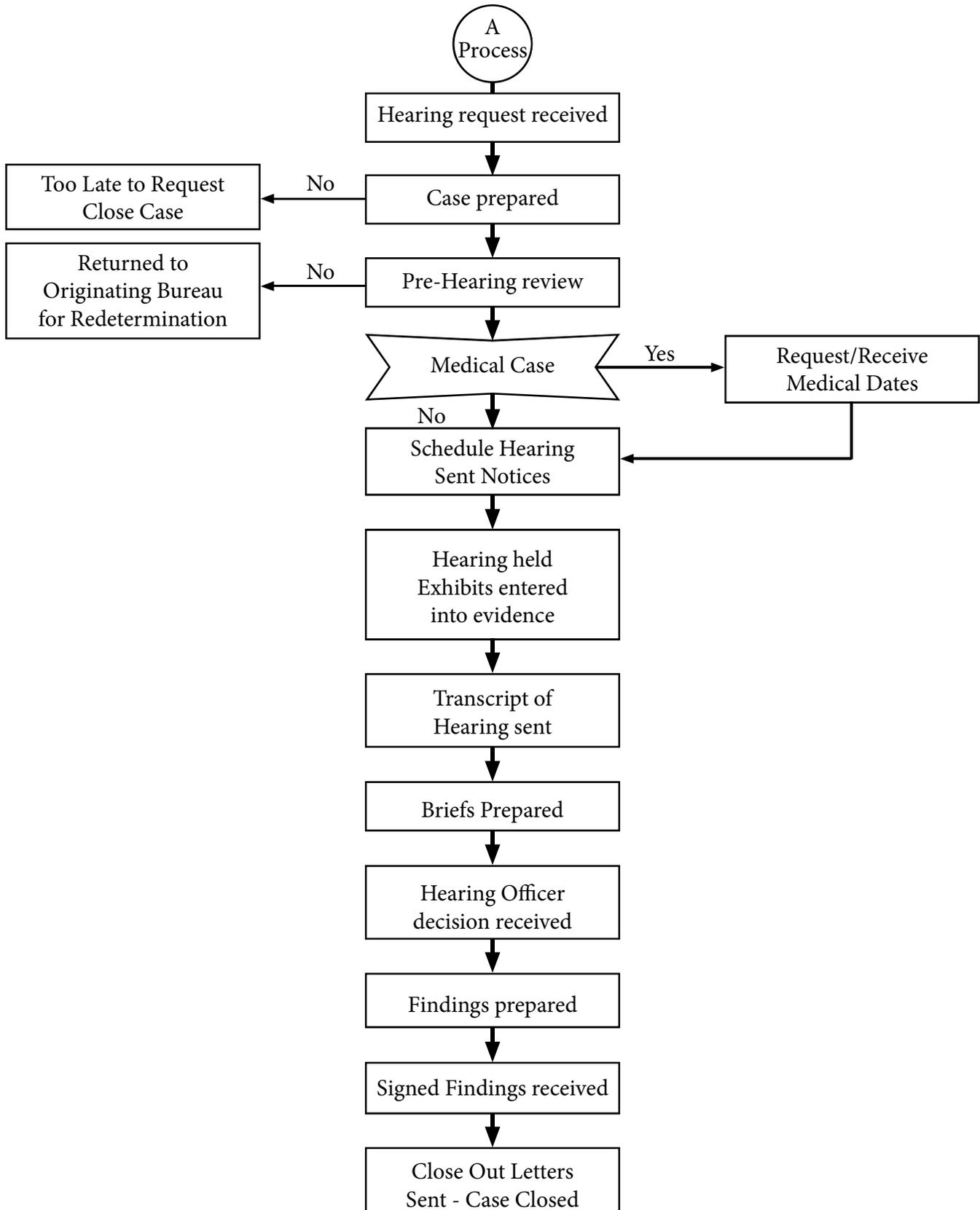
- u Benefit Booklet

Disability Processing, Hearing Administration and The Counsel to the Retirement Systems

Work Flow A



Disability Processing, Hearing Administration and The Counsel to the Retirement Systems Work Flow B





**New York State Correctional Officers
& Police Benevolent Association, Inc.**

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Health and Safety Workers' Compensation

Contact: **Jocelyn Gleason , LPN**

1-518-427-1551 Ext. 247

Fax: 1-518-426-1635

Email: jgleason@nyscopba.org

Function/ Responsibilities:

1. Review Health and Safety issues as reported to the Stewards in each facility.
2. Attempt to resolve issues based upon subjective/objective information at the local level.
3. Review PESH and OSHA information to provide direction regarding reported Health & Safety issues.
4. Provide information regarding Workers' Compensation benefits both contractual and statutory.
5. Provide Workers' Compensation packets that are available on the NYSCOPBA website or by contacting Jocelyn Gleason

Information included:

1. PESH complaint document.
2. Workers' Compensation helpful phone numbers
3. Information Guide for a Workers' Compensation Claim.
4. Documentation for workers compensation leave.
5. Dispute resolution program: New York State Workers' Compensation Program.

DOCUMENTATION FOR WORKERS' COMPENSATION LEAVE

NOTE: RETURN MEDICAL DOCUMENTATION TO THE FACILITY MEDICAL INFORMATION OFFICER, NOT FACILITY MEDICAL STAFF.

- Initial Medical Documentation for Workers' Compensation must be submitted to the facility Medical Information Officer within the first week of absence of upon return to duty, whichever occurs first.
- For Workers' Compensation absences, documentation is to be submitted to the facility Medical Information Officer on an ongoing basis, normally every two weeks but not less than once per month for extended absences.
- Adequate medical documentation must be submitted to the facility Medical Information Officer UPON RETURN TO DUTY, unless they have been ordered to return to full or limited duty because of an Independent Medical Evaluation.

Employee's Name: _____

Date of Injury: _____

Date of First Treatment for this Injury: _____

Date of Examination: _____

Date Employee is Incapacitated From: _____ To: _____

Prognosis: _____

Diagnosis: _____

(Required for all Workers' Compensation absences, regardless of length.)

Re-Evaluation Date: _____ Full Duty Date: _____

This Injury/Illness is Work-Related (Workers' Compensation)

For preapproved Workers' Compensation doctor's appointments of more than 4 hours or for any amount of time for NYSCOPBA Employees:

Start Time of Appt: _____ End Time of Appt: _____

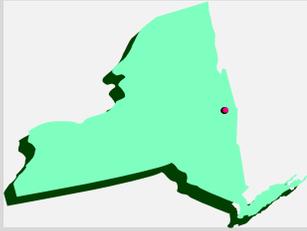
Signature of Medical Provider of Designee

Date Signed

Location of Office Where Examination Took Place:

An alternate form may be used for documentation but all of the required information must be included. All documentation is subject to verification.

Dispute Resolution Program



New York State Workers' Compensation Program

For NYS Employees represented by:

- **New York State Correctional Officers and Police Benevolent Association, Inc. (NYSCOPBA) in the Security Services Unit**
- **Council 82 in the Security Supervisors Unit**
- **Police Benevolent Association of New York State, Inc. (PBANYS) in the Agency Police Services Unit (APSU)**

Administered by:

**National Medical Reviews, Inc.
260 Knowles Avenue, Suite 330
Southampton, PA 18966
Phone: 215-352-7800/Toll free: 800-283-8196
Fax: 215-352-7801/Toll free: 866-357-9045**

What is the Medical Evaluation Program (MEP)?

The Medical Evaluation Program (MEP) is a program that provides eligible employees who suffer a work-related injury or illness with an expedited, independent examination arranged by the New York State Insurance Fund (SIF). A SIF Evaluating Physician will determine your degree of disability. This determination is used by your Employing Agency as the basis for its decision to make a Light Duty Assignment.

What is the Dispute Resolution Program (DRP)?

The Dispute Resolution Program (DRP) provides eligible employees with a process to review conflicting medical opinions regarding your degree of disability for a work-related injury or illness.

The DRP affords you the opportunity for an independent, third party medical review, in those instances where the decision of the Evaluating Physician does not agree with your Treating Physician regarding your degree of disability.

What is the effect of the Evaluating Physician's determination on the MEP?

If the Evaluating Physician determines that your degree of disability is greater than fifty percent (50%), you continue to receive workers' compensation leave benefits at full-pay.

If the Evaluating Physician determines that your degree of disability is fifty percent (50%) or less, the Evaluating Physician must also assess your estimated physical capabilities and expected return to work.

When did the DRP become effective?

A work-related injury or illness that occurred on or after April 15, 1993 and was in dispute regarding the degree of disability on or after November 1, 1998 is eligible for the DRP.

Who performs the third party medical review?

National Medical Reviews, Inc. (NMR), an independent medical review organization dedicated to providing evidenced-based medical reviews, will issue an independent, third party review determination regarding your degree of disability.

Dispute resolution reviews are conducted by physicians selected from NMR's extensive panel of

more than five hundred (500) physicians representing twenty six (26) medical disciplines. NMR physicians, who are board certified in their specialties and authorized by the New York State Workers' Compensation Board (Board), will evaluate your medical records. Assignments for appeals will be made according to the specific type of injury or illness involved. For example, heart diagnoses will be reviewed by a cardiologist, surgical diagnoses by a surgeon, etc.

NMR assures that appeals are reviewed by members of a neutral panel of physicians. These physicians must adhere to NMR's confidentiality and conflict of interest requirements. A Reviewer must maintain the confidentiality of the personal health information provided and must decline to review any case where he/she has been involved personally or professionally.

Which cases are eligible for dispute resolution?

Your case is eligible for dispute resolution if you have elected to participate in the MEP, and

- a. your Treating Physician determines that you have an injury/illness resulting in a disability of greater than fifty (50) percent and the Evaluating Physician determines that you have an injury/illness resulting in a disability of fifty (50) percent or less; or
- b. your Treating Physician determines that a disability exists and the Evaluating Physician determines you have no disability.

In either of these situations, if your Treating Physician's determination does not agree with the Evaluating Physician's determination, your Treating Physician may appeal on your behalf.

Who can initiate the request for dispute resolution?

Requests for dispute resolution must be initiated on your behalf by your Treating Physician using a Dispute Resolution Program Appeal Form (Appeal Form). You can obtain this Appeal Form from your Employing Agency.

You are responsible for providing the Appeal Form to your Treating Physician, informing him/her of the appeal process and requesting that he/she submit the appeal to NMR.

Your Treating Physician is responsible for providing NMR with a completed Appeal Form and all medical documentation to substantiate the degree of disability determination.

The Evaluating Physician's report will be provided by the SIF to NMR if it was not received from your Treating Physician.

When must the Treating Physician submit the appeal to NMR?

Your Treating Physician must submit the appeal to NMR during the Appeal Period. For the MEP, the Appeal Period is three (3) business days from the time that you are notified to return to work. Business day means any day Monday through Friday, with the exception of holidays observed by the State as an employer.

The time of day that you receive your notification is important in determining the first day of the Appeal Period. If your notification to return to work occurs prior to noon, that is the first day of the Appeal Period. If the notification occurs at noon, afternoon or on a non-business day, the next business day is the first day of the Appeal Period.

What time frames must be followed by NMR?

When NMR receives your appeal, NMR must immediately request supporting medical documentation from the Evaluating Physician (if it was not received from your Treating Physician). Once NMR receives complete medical documentation from both the Treating and Evaluating Physicians, NMR will complete the review within seven (7) calendar days. This seven-day period is the Program Review Period. NMR will report, in writing, the Reviewing Physician's decision to uphold the Treating or Evaluating Physician's determination within the

Program Review Period. The outcome of the review shall be reported in writing to you, your Employing Agency, your Treating Physician, the Evaluating Physician, your bargaining unit and the SIF.

What are the consequences of missing a deadline?

- a. If your Treating Physician's appeal including all necessary medical documentation is not received by NMR within the Appeal Period, and you do not return to work from the work-related injury or illness, you will remain in or be placed in Leave Without Pay (LWOP) status until an appeal is received.
- b. If NMR's decision is not completed within the Program Review Period and you had a work-related injury or illness, you (either working, on LWOP or charging accruals) will be placed in Workers' Compensation Leave full-pay status on the next assigned work day until NMR's decision is rendered.

What is the payroll status of employees during the Appeal Process?

- a. If you return to work in a light duty, modified duty or full duty assignment pending the outcome of an appeal, you will receive full-pay.
- b. If the three days of LWOP ends prior to the expiration of the Appeal Period [three (3) business days], you will be allowed to use leave credits until the Appeal Period expires.
- c. Following the three days of LWOP and if your appeal is received by NMR during the Appeal Period, you will be allowed to charge available leave credits for the number of days in the Program Review Period [up to seven (7) calendar days] pending the outcome of the appeal.

What happens if the NMR Physician finds in favor of the Treating Physician?

If NMR finds in favor of your Treating Physician's determination of your degree of disability, your Employing Agency will advise you through a telephone call and letter not to report to work until further notification. The appropriate Workers' Compensation Leave will be retroactive to the first day of LWOP relating to the disputed degree of disability for a work-related injury or illness.

What happens if the NMR physician finds in favor of the Evaluating Physician?

If the NMR physician finds in favor of the Evaluating Physician's determination of degree of disability, your Employing Agency will notify you to report to work in a medically appropriate assignment. If you fail to report to work, you will be placed in LWOP status. Any leave credits used during the Appeal Period and/or Program Review Period will not be returned to you. The period of Workers' Compensation Leave without charge to credits will not be affected by an adverse decision in the DRP. If, at a subsequent hearing of the Board, the Appeal Period or Program Review Period is found compensable, restoration of such leave credits will be proportional to the wage award.

Once you are notified by NMR of the Reviewing Physician's determination, there is no further appeal under the DRP. Requests for further appeals beyond the DRP pertaining to issues of eligibility for statutory benefits must be made to the Board pursuant to the New York State Workers' Compensation Law.

What happens after the appeal is filed?

In addition to the Dispute Resolution Program Appeal Form, there are two letters you will receive as part of the dispute resolution process:

Acknowledgment letter advising you that the appeal was received by NMR and that all medical documentation was included. If all medical documentation was not received, your appeal will be considered invalid. The appeal cannot be reviewed until NMR receives the necessary medical documentation.

Review Determination letter advising you of the outcome of your appeal. The NMR Reviewing Physician will either agree with your Treating Physician or agree with the Evaluating Physician on your degree of disability.

You will be contacted by your Employing Agency regarding the outcome of the review.

How do I initiate an appeal through the DRP?

- Obtain the New York State Workers' Compensation Dispute Resolution Program Appeal Form from your Employing Agency immediately upon receiving the notification by your Employing Agency to return to work.
- Complete the form by printing or typing all requested information in Part I, Employee Section of the Appeal Form.
- Sign your name at the bottom of Part I.
- Immediately take the form to your Treating Physician.
- Explain to your Treating Physician the importance of completing Part II of the form and submitting it to NMR **within three (3) business days of notification by your Employing Agency to return to work.** Failure to comply may result in additional leave without pay.

NOTE: You cannot file this appeal on your own behalf. Only your Treating Physician can file this appeal.

Instructions to Treating Physician:

- Type or print all requested information in Part II of the Appeal Form.
- Attach all additional medical documentation needed to substantiate the employee's degree of disability to the completed Appeal Form.
- Sign your name at the bottom of Part II.
- Send the completed Appeal Form and any additional medical documentation to NMR by overnight mail or facsimile **within (3) business days of notification by the Employing Agency to the employee to return to work.** Any information sent via facsimile should be followed with a copy by mail.
- NMR mailing address:
National Medical Reviews, Inc.
 260 Knowles Avenue, Suite 330
 Southampton, PA 18966
 Phone: 215-352-7800 / Toll free: 800-283-8196
 Fax: 215-352-7801 / Toll free: 866-357-9045
- You will receive a copy of the NMR physician's determination which will agree with either your determination or that of the Evaluating Physician in regard to the Employee's degree of disability.

The Department of Civil Service, the State Insurance Fund and the Workers' Compensation Board administer the Workers' Compensation Program.

State of New York, Department of Civil Service
 Employee Benefits Division
 Alfred E. Smith State Office Building
 Albany, NY 12239

WC/DRP/2-12

It is the policy of the State of New York Department of Civil Service to provide reasonable accommodation to ensure effective communication of information in benefits publications to individuals with disabilities. If you need an auxiliary aid or service to make benefits information available to you, please contact your Personnel Office.

New York State Workers' Compensation Dispute Resolution Program Appeal Form

For Employees Eligible for the Medical Evaluation Program (MEP)

Instructions to Employee: Complete Part I of this form and immediately take it to your Treating Physician who must complete Part II. Your Treating Physician must return this form to National Medical Reviews, Inc. (NMR) within three (3) business days of notification by your Employing Agency to return to work. Failure to comply may result in leave without pay status. **You cannot file this appeal on your own behalf; this appeal form must also be completed and submitted to NMR by your Treating Physician.**

Part I: To be completed by Employee (Please print or type)

Date	Date Notified to Return to Work	
Employee Name (first, middle, last)	Social Security Number	
Home Address	Home Telephone Number	
	SIF Carrier Case Number (Eleven digits) _____ - _____	
Employing Agency Name	Work Address	
Work Phone Number		
Date and brief description of the injury/illness resulting in your Workers' Compensation claim: (ATTACH ADDITIONAL SHEETS)		
Employee Signature	Negotiating Unit (NU):	NU Code:

Part II: To be completed by Employee's Treating Physician (Please print or type)

Instructions to Treating Physician: Complete Part II of this form and immediately return it with complete and comprehensive medical documentation that substantiates the employee's degree of disability. A NMR Physician will review the medical records and documentation sent by you and the Evaluation Physician and will render a determination in regard to the degree of disability that agrees with your determination or that of the Evaluation Physician. NMR must receive this completed form (including all necessary medical documentation) within three (3) business days of notification by the Employing Agency to the employee to return to work. Failure to comply may result in leave without pay status for the employee. **You may mail or fax completed forms and supporting documentation to:**

National Medical Reviews, Inc.
260 Knowles Ave, Suite 330
Southampton, PA 18966
Fax: (215) 352-7801 / Toll Free (866) 357-9045
Phone: (215) 352-7800 / Toll Free (800) 283-8196

Please follow all faxed copies with a copy by mail or overnight delivery.

Diagnosis: [ATTACH ADDITIONAL MEDICAL RECORD DOCUMENTATION]

Treatment Plan: [ATTACH ADDITIONAL MEDICAL RECORD DOCUMENTATION]

Prognosis: [ATTACH ADDITIONAL MEDICAL RECORD DOCUMENTATION]

Estimated Degree of Disability: _____%

Treating Physician's Signature of Attestation:

Address:

Name: (Please print)

Telephone Number: ()



**New York State Department of Labor
Public Employee Safety and Health Bureau**

Notice of Alleged Safety or Health Hazards

For the General Public:

This form is provided for the assistance of any complainant and is not intended to constitute the exclusive means by which a complaint may be registered with the New York State Department of Labor.

Section 27a(5)(a) of the Public Employee Safety and Health Act of 1980 provides as follows: "Any employee or representative of employees who believes that a violation of a safety or health standard exists, or that an imminent danger exists, may request an inspection by giving notice to the commissioner (of Labor) of such violation or danger. Such notice and request shall be in writing, shall set forth with reasonable particularity the grounds for the notice, shall be signed by such employee or representative of employees, and a copy shall be provided by the commissioner to the employer or the person in charge no later than the time of inspection, except that on request of the person giving such notice, his name and the names of individual employees or representatives of employees shall be withheld. Such inspections shall be made forthwith." If the Commissioner of Labor determines there are no reasonable grounds to believe that a violation or danger exists, the Commissioner shall notify the employees or representative of the employees in writing of such determination.

Note: Section 27a (10) (a) of the Act provides explicit protection for employees exercising their rights, including making safety and health complaints.

Instructions:

Complete as accurately and completely as possible. Describe each hazard you think exists in as much detail as you can. If the hazards described in your complaint are not all in the same area, please identify where each hazard can be found at the worksite. If there is any particular evidence that supports your suspicion that a hazard exists (for instance, a recent accident or physical symptoms of employees at your site) include the information in your description. If you need more space than is provided on the form, continue on any other sheet of paper.

After you have completed the form, return it to nearest DOSH district office listed below:

Division of Safety and Health District Offices
Public Employee Safety and Health Bureau

ALBANY 12240 State Office Campus Bldg. #12 Rm. 158 Tel: (518) 457-5508 FAX: (518) 485-1150	BINGHAMTON 13901 44 Hawley Street – Rm. 901 Tel: (607) 721-8211 FAX: (607) 721-8207	BUFFALO 14202 65 Court St – Rm. 400 Tel: (716) 847-7133 FAX: (716) 847-7108
GARDEN CITY 11530-6551 400 Oak Street - Suite 101 Tel: (516) 228-3970 FAX: (516) 794-7714	NEW YORK CITY 75 Varick Street (7thFl.) New York, NY 10013 Tel: (212) 775-3548 FAX: (212) 775-3542	ROCHESTER 14607 109 S. Union St. – Rm. 402 Tel: (585) 258-4570 FAX: (585) 258-4593
SYRACUSE 13202 450 S. Salina St. – Rm. 401 Tel: (315) 479-3212 FAX: (315) 479-3451	UTICA 13501 207 Genessee St. – Rm. 703A Tel: (315) 793-2258 FAX: (315) 793-2303	WHITE PLAINS 10605 120 Bloomingdale Rd. - Rm. 255 Tel: (914) 997-9514 FAX: (914) 997-9528

		Complaint Number	
Establishment Name			
Site Address			
	Site Phone	Site FAX	
Mailing Address			
	Mail Phone	Mail FAX	
Management Official			Telephone
Type of Business			

Hazard Description/Location. Describe the hazard(s) which you believe exist (be specific). Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists. Use additional sheets if necessary.

Has this condition been brought to the attention of:	<input type="checkbox"/> Employer	<input type="checkbox"/> Other Government Agency (specify)
Please Indicate Your Desire:	<input type="checkbox"/> Do NOT reveal my name to my Employer <input type="checkbox"/> My name may be revealed to the Employer	
The Undersigned believes that a violation of an Occupational Safety or Health standard exists which is a job safety or Health hazard at the establishment named on this form:	(Mark <input checked="" type="checkbox"/> in ONE box) <input type="checkbox"/> Employee <input type="checkbox"/> Representative of Employees	
	<input type="checkbox"/> Safety and Health Committee <input type="checkbox"/> Other (specify)	
Complainant Name		
Telephone Number		
Address (Street, City, State, Zip)		
Signature	Date	
If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:		
Organization Name:	Your Title:	

Information Guide for a Workers' Compensation Claim

Date of Injury:

- _____ Report injury to facility.
- _____ Complete the Accident/Injury Report and the Benefit Election form at your facility.
Call ARS (888-800-0029) to report injury to State Insurance Fund
- _____ Obtain prompt medical treatment in an Emergency Room, Urgent Care or with personal physician and advise providers the NYS Insurance Fund is the Workers' Compensation carrier. Any treating provider must have certification from the Workers' Compensation Board (WCB) to treat Workers' Compensation injuries. It is important to ask the physician, prior to making an appointment, if he/she is able to treat Workers' Compensation claims. Most Emergency Rooms and Urgent Care facilities have approval from the WCB.
- _____ Complete a C3 (new injury) or C3.3 (prior injury to same part of body) and mail to
Workers' Compensation Board
Centralized Mailing Address
PO Box 5205
Binghamton, NY 13902-5205

The C3 can also be completed electronically on the Workers' Compensation Board website at www.wcb.ny.gov
- _____ Provide disability notes to facility even if it only involves one day after the injury.
All the information requested on the Documentation **for Workers' Compensation Leave** form must be completed.
Failure to do so may result in a pay status change. It is not necessary to use the leave form; however all the information requested on the leave form must be provided on a physician's letterhead.
It is your responsibility to make sure all the information is completed correctly.
- _____ Review the Workers Compensation Statement of Rights and Legislation regarding injuries from an assault.
- _____ Review the Pharmacy Network Information

_____ Obtain and keep copies of all notes provided to facility that pertain to
such as: _____ Facility injury report
_____ Names of witnesses
_____ Emergency Room report – make sure to obtain an out of work note
_____ If applicable
_____ **All** phone calls/dates
_____ **All** correspondence from the State Insurance Fund and the
_____ Workers' Compensation Board
_____ **All** correspondence from your facility
_____ Mileage including dates of treatment related to your injury -
_____ MD/chiropractic visits, physical therapy, Independent Medical
Examination (IME)
These are expenses that should be sent to the State Insurance
Fund for a reimbursement of out of pocket expenses.

_____ If your WC claim is controverted (not accepted) or you are placed on LWOP,
YOU HAVE JUST 20 DAYS TO FILE A GRIEVANCE after you receive
notification. Refer to Frequently Asked Questions for further information.

_____ IME information – see FAQ's for more information.

_____ Review the Dispute Resolution appeal form and information.

_____ Review the New York State Department of Correctional Services Directives:
- # 2207 Time & Attendance Rules – Personal leave
- # 2208A Workers Compensation Benefits – (Security Services)

_____ Review the New York State Department of Civil Service Attendance and Leave
Manual – Policy Bulletin 93-02 Section 21.8

_____ Review the NYSCOPBA Contract

All forms are provided in "List of Attachments"

HELPFUL PHONE NUMBERS FOR WORKERS' COMPENSATION CASES

NYSCOPBA 1-888-484-7279

or

518-427-1551

TOPIC	ASSISTANCE PROVIDED	PHONE	CONTACT
		NUMBER OR	
		EXTENSION AT NYSCOPBA	
Accident Reporting System (ARS) for the State Insurance Fund	Call center is staffed Monday through Friday 8AM to 9PM to report an injury. There is no requirement to call to set up a claim.	1-888-800-0029 for the State Insurance Fund	Automated System
Workers' Compensation	Answer questions pertaining to WC and the NYSCOPBA contract.	247	Jocelyn Gleason
Disability Pension	Explanation of disability pension process. Provides information and forms.	257	Bill Naylor
Medical Benefits	Explanation of health insurance when payroll status changes.	236	Sharon Smith
Norvest	If enrolled for optional disability insurance.	1-888-869-8252	Norvest Customer Assistance
AFLAC	If enrolled for accident/sickness	1-800-366-3436	Aflac Customer Assistance
Membership Services	Resolve problems with Norvest/AFLAC. Provide information to members leaving state payroll.	261 246	Stephanie Flanagan, Gary Carlsen
Specialists/Physicians	List of specialists who accept WC cases.	1-800-781-2362	Website – www.wcb.ny.gov
Advocate for the Injured Worker	Answers questions pertaining to your specific case.	1-800-580-6665	Website – www.wcb.ny.gov

Workplace Violence

Jocelyn Gleason

jgleason@nyscopba.org

Joseph Miano

jmiano@nyscopba.org

The purpose of the Workplace Violence Program and Committee is to establish a process that allows the members to be the key stakeholder in their safety. By doing this, this will allow NYSCOPBA to bring safety issues to light, change laws, policies, identify staffing needs, request better equipment, and improve the overall work environment for all NYSCOPBA members.

In the following pages you will find reference information and documents to keep you informed of the overall Workplace Violence Program. This information should be used for reference information only. Also you will find statistics and data collection that was used from the 2016 calendar year this was shared at the annual DOCCS Workplace Violence meeting

Stewards should be reminded to have an annual Workplace Violence meeting with facility management in February of each year. There should be minutes of this meeting, and once approved, those minutes should be sent to NYSCOPBA to the attention of **Joe Miano**.

Stewards should also bring up Workplace Violence issues (i.e. Assaults on Staff, threats, and/ or other unsafe work conditions) to their regular scheduled Labor-Management meeting as necessary. Please remember that once these minutes are approved to forward a copy to NYSCOPBA – Albany

Stewards should request all inmate misbehavior reports that were labeled workplace violence and they should also request all workplace violence related unusual incidents. These reports should be requested on the 15th of each month. These reports should be made readily available to you, and if you are denied these reports, contact Joe Miano in the **NYSCOPBA Albany Office**.

It is important for a Steward to sit on the Workplace Violence Committee at the local level and attend the meetings. By actively participating on the committee the Steward will be able to address and advocate the issues brought to the Union by its membership. Just because a NYSCOPBA Steward is on the committee does not require the Steward to be part of the reporting mechanism for staff on staff claims of Workplace Violence. Directive 4960 (Workplace Violence Program) does not affect any of the rights and responsibilities including privileged communication for the local Steward. The confidentiality that the Union Steward possess with its membership is critical to proper representation.

6139



BRIAN FISCHER
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

LUCIEN J. LECLAIRE, JR.
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

MEMORANDUM

TO: All Superintendents
FROM: Lucien J. Leclaire, Jr., Deputy Commissioner
SUBJECT: Unusual Incident Reporting of Workplace Violence
DATE: September 4, 2009

In conjunction with the implementation of Directive #4960, "Workplace Violence Prevention Program," and required reporting of incidents as outlined within, the following enhancements have been made to the Unusual Reporting System to ensure such incidents are captured, should reporting as an unusual incident be required in accordance with Directive #4004.

Each facility superintendent will be required to indicate an occurrence of workplace violence by entering Y (yes) or N (no) in the field provided on the signature page of the final unusual incident report. If the facility has any unusual incidents related to workplace violence, Report #UNS312F will automatically print in the superintendent's office on the 15th of each month. The superintendent shall forward this report to the facility's deputy superintendent for security or appropriate designee for appropriate action. The unusual incident manual has been updated to reflect these changes and several others related to the executive user screens which have been forwarded to you. Please ensure regular users of the U.I. system are provided with a copy of this updated user manual. The changes apply to any unusual incidents occurring on or after September 15, 2009.

Should you have any questions concerning the UI system changes, please contact Colonel Bly, Director of CERT Operations at 518-457-2006, or ERBly@docs.state.ny.us.

Lucien J. Leclaire, Jr.
Deputy Commissioner

Unusual Incidents Categorized as Workplace Violence, By Type: 2010 - 2016

Incident Type	Year																				
	2010			2011			2012			2013			2014			2015			2016		
	All	WPV	%																		
Accident	430	0	0%	471	2	0%	546	2	0%	583	1	0%	583	1	0%	533	8	2%	544	1	0%
Assault on Inmate	676	86	13%	670	98	15%	654	87	13%	773	109	14%	864	126	15%	919	115	13%	1138	129	11%
Assault on Staff	585	579	99%	575	570	99%	540	528	98%	655	648	99%	755	742	98%	906	897	99%	771	760	99%
Assault on Other	16	8	50%	2	0	0%	5	0	0%	7	4	57%	8	3	38%	7	2	29%	13	2	15%
Contraband	2501	168	7%	2455	188	8%	2556	201	8%	2976	237	8%	3640	274	8%	4765	376	8%	4765	267	6%
Death	133	1	1%	123	0	0%	123	0	0%	145	1	1%	132	0	0%	124	2	2%	152	1	1%
Disruptive Behavior	346	207	60%	368	210	57%	477	227	48%	522	262	50%	516	226	44%	572	254	44%	636	374	59%
Disruption of Facility	17	1	6%	13	0	0%	7	0	0%	4	1	25%	10	0	0%	7	1	14%	11	1	9%
Employee Misconduct	163	6	4%	133	2	2%	140	7	5%	121	2	2%	118	6	5%	117	3	3%	109	2	2%
Escape	2	0	0%	4	2	50%	1	1	100%	1	0	0%	0	0	N/A	2	1	50%	1	0	0%
Attempted Escape	0	0	N/A	2	0	0%	2	1	50%	1	1	100%	2	0	0%	1	0	0%	1	0	0%
Fire	32	2	6%	30	7	23%	22	1	5%	34	7	21%	16	3	19%	30	4	13%	24	1	4%
Inmate Mass Demonstration	1	1	100%	1	0	0%	14	2	14%	0	0	N/A	1	0	0%	0	0	N/A	2	1	50%
Property Destroyed	11	3	27%	14	3	21%	14	2	14%	3	0	0%	3	1	33%	4	0	0%	3	1	33%
Property Lost or Stolen	115	0	0%	83	0	0%	78	0	0%	76	0	0%	57	0	0%	70	0	0%	80	0	0%
Self-Inflicted Injury	57	2	4%	80	8	10%	114	10	9%	78	8	10%	93	5	5%	74	3	4%	77	2	3%
Sexual Misconduct	71	8	11%	65	1	2%	53	0	0%	51	1	2%	58	1	2%	70	0	0%	39	1	3%
Suicide Attempt	117	10	9%	133	7	5%	145	13	9%	159	23	14%	181	18	10%	155	15	10%	188	16	9%
Temp Release Related	129	1	1%	73	0	0%	36	0	0%	29	0	0%	28	1	4%	17	0	0%	23	0	0%
Staff Use of Weapons	155	146	94%	170	164	96%	143	132	92%	203	190	94%	191	176	92%	205	184	90%	293	280	96%
Employee Job Action	0	0	N/A	2	0	0%	1	0	0%	0	0	N/A									
Other Incidents	498	70	14%	552	80	14%	488	69	14%	532	93	17%	541	102	19%	605	117	19%	976	116	12%
Total	6055	1299	21%	6019	1342	22%	6145	1281	21%	6953	1588	23%	7797	1685	22%	9183	1982	22%	9846	1955	20%

Workplace Violence UIs by Facility: 2010 - 2016							
Facility	2010	2011	2012	2013	2014	2015	2016
Shock							
Monterey Shock	0	0	0	1	0	0	0
Moriah Shock	0	0	0	2	2	1	0
Lakeview Shock	3	2	0	1	1	1	2
Sub-total	3	2	0	4	3	2	2
Minimum Security							
Lakeview Male Trans	1	2	1	3	3	3	1
Beacon	0	1	0	0	0	0	0
Edgecombe	0	0	0	0	3	0	2
Fulton	0	2	0	0	0	0	0
Lincoln	0	1	0	0	2	0	0
Queensboro	6	2	1	9	20	9	8
Rochester	0	0	0	0	1	2	0
Camp Georgetown	0	1	0	0	0	0	0
Edgecombe Work Release	1	0	0	0	1	0	1
Fishkill Work Release	0	0	0	0	0	1	0
Hudson Work Release	0	0	0	0	0	1	0
Sub-total	8	9	2	12	30	16	12
Other							
Edgecombe Res Trmt	0	0	1	4	1	3	2
Orleans PDP	0	0	0	0	1	0	0
Willard Gen.Male	3	3	7	3	2	6	4
Willard Gen.Female	0	0	0	0	0	0	1
Willard DTC Male	7	10	11	7	4	4	4
Willard DTC Female	0	1	1	1	1	0	2
Central Office	0	0	0	0	1	0	0
Sub-total	10	14	20	15	10	13	13
Grand Total	1299	1342	1281	1588	1685	1982	1955

Workplace Violence UIs by Facility: 2010 - 2016							
Facility	2010	2011	2012	2013	2014	2015	2016
Medium Security							
Adirondack	1	2	0	5	8	9	1
Albion	19	5	6	8	10	28	22
Altona	0	2	0	1	0	1	1
Arthur Kill	13	5	0	0	0	0	0
Bare Hill	12	5	10	8	20	23	17
Bayview	2	2	2	0	0	0	0
Butler	0	1	0	1	0	0	0
Cape Vincent	2	1	1	2	2	8	11
Cayuga	4	1	0	1	3	8	7
Chateaugay	0	0	5	1	0	0	0
Collins	0	0	3	3	4	12	9
Fishkill	20	15	27	26	30	47	38
Franklin	8	16	11	19	21	50	27
Gouverneur	3	4	0	4	2	7	8
Gowanda	15	12	10	9	17	21	18
Greene	14	16	24	17	25	31	10
Groveland	5	7	15	22	23	11	15
Hale Creek	2	0	0	0	1	2	1
Hudson	2	1	0	0	2	3	12
Livingston	3	2	9	1	9	9	9
Marcy	3	14	17	26	34	17	33
Mid-State	23	17	6	23	30	36	36
Mohawk	6	1	4	9	17	15	12
Mt. McGregor	1	2	5	5	0	0	0
Ogdensburg	0	0	2	1	0	3	6
Oneida	4	2	0	0	0	0	0
Orleans	17	9	2	13	13	18	14
Otisville	0	0	1	2	0	1	1
Riverview	1	2	2	1	9	15	4
Taconic	7	2	2	1	7	4	1
Ulster	4	1	2	4	12	4	6
Wallkill	1	2	0	1	3	3	4
Washington	5	12	8	6	17	33	32
Watertown	6	2	2	2	3	2	2
Woodbourne	1	4	3	6	3	6	5
Wyoming	4	2	6	15	21	20	19
Sub-total	208	169	185	243	346	447	381

Workplace Violence UIs by Facility: 2010 - 2016							
Facility	2010	2011	2012	2013	2014	2015	2016
Residential Mental Health Treatment Unit							
Attica	0	1	0	0	0	0	0
Five Points	11	2	0	0	0	0	0
Attica RMHU	0	2	5	3	2	8	8
Five Points RMHU	0	22	51	33	57	36	74
Marcy RMHU	74	65	45	58	45	65	62
Bedford Hills TBU	0	0	1	2	6	8	14
Great Meadow BHU	22	20	7	25	14	19	35
Sullivan BHU	5	13	7	3	0	0	0
Albion ICP	0	0	1	0	0	0	0
Attica ICP	2	0	0	1	4	9	4
Auburn ICP	3	2	1	0	3	1	1
Bedford Hills ICP	0	0	0	0	5	1	4
Clinton ICP	2	0	0	0	7	1	2
Elmira ICP	1	0	3	2	0	0	0
Fishkill ICP	0	1	0	1	1	1	0
Five Points ICP	0	5	1	0	2	3	1
Green Haven ICP	0	3	1	1	7	8	3
Great Meadow ICP	6	9	5	12	10	9	5
Midstate ICP	0	0	0	1	1	1	1
Sing Sing ICP	0	0	0	1	1	0	0
Sullivan ICP	1	9	5	3	10	10	2
Wende ICP	2	1	10	5	2	5	1
Sub-total	129	155	143	151	177	185	217
Regional Medical Unit							
Bedford Hills RMU	1	0	0	0	1	0	0
Coxsackie RMU	7	3	2	1	0	2	6
Fishkill RMU	0	0	2	8	1	0	0
Walsh RMU	5	3	3	8	8	3	5
Wende RMU	5	7	2	1	2	1	3
Sub-total	18	13	9	18	12	6	14

Workplace Violence UIs by Facility: 2010 - 2016							
Facility	2010	2011	2012	2013	2014	2015	2016
Maximum Security							
Attica	98	100	56	120	131	93	105
Auburn	63	97	110	94	71	187	134
Bedford-F	16	27	29	36	34	29	33
Clinton	99	119	75	139	125	160	190
Coxsackie	28	45	35	38	30	28	47
Downstate	23	31	64	46	38	64	57
Eastern	6	3	5	10	2	16	7
Elmira	56	68	54	92	96	61	78
Five Points	44	58	50	80	45	57	47
Great Meadow	115	74	83	157	161	158	183
Green Haven	72	70	53	68	86	119	90
Shawangunk	9	6	4	11	9	5	4
Sing Sing	75	59	60	46	65	51	58
Southport	31	49	35	17	18	38	40
Sullivan	4	16	16	15	37	75	78
Upstate	91	64	66	60	48	72	59
Wende	42	59	67	58	49	39	35
Sub-total	872	945	862	1087	1045	1252	1245
Special Housing SHU200							
Cayuga SHU200	9	1	5	5	2	4	0
Collins SHU200	4	12	12	8	11	14	13
Fishkill SHU200	11	3	24	15	11	14	22
Gouverneur SHU200	7	1	3	4	3	10	5
Greene SHU200	5	5	3	6	8	4	9
Lakeview SHU200	6	2	7	2	1	6	6
Mid-State SHU200	3	6	2	13	21	6	5
Orleans SHU200	6	5	4	5	5	3	11
Sub-total	51	35	60	58	62	61	71

Workplace Violence

The requirement for Workplace Violence Prevention Programs (WVPP) within every state agency stems from the enactment of New York State Labor Law § 27-b in 2006 (with an effective date in 2007). Specifically, this law, entitled “Duty of Public Employers to Develop and Implement Programs to Prevent Workplace Violence” has the stated purpose “to ensure that the risk of workplace assaults and homicides is evaluated by affected public employers and their employees and that such employers design and implement workplace violence protection programs to prevent and minimize the hazard of workplace violence to public employees.” *Labor Law § 27b(1)*.

When enacted, the legislature published the following as its legislative findings:

The legislature finds and declares that workplace assaults and homicides are a serious public health problem that demands the attention of the state of New York. During the last decade, homicide was the third leading cause of death for all workers and the leading cause of occupational death for women workers. Workplace violence presents a serious occupational safety hazard for workers, but many employers and workers may be unaware of the risk. Moreover, the hazard of workplace violence is not currently addressed by any specific federal or state statute and regulation. It is critical to the maintenance of a productive workforce that employers and workers evaluate their workplaces to determine the risk of violence and to develop, and implement programs to minimize the hazard. Experience has shown that when employers evaluate the safety and health hazards in their workplaces and implement employee protection programs, the incidence of workplace injuries is reduced. The legislature, therefore, further finds and declares that the public health, safety and welfare would be advanced by enactment of a law to require that employers develop and implement workplace violence protection programs designed to minimize the danger to employees of workplace violence.

The law specifically requires written workplace violence prevention programs and indicates that the programs must include a) a list of risk factors, and b) the methods the employer will use to prevent incidents of occupational assaults and homicides. The law also requires employee information and training.

Following the enactment of the law, the Department of Labor was required to promulgate regulations outlining the specific requirements for workplace violence prevention programs. These regulations were promulgated in April, 2009, and are found in 12 NYCRR § 800.6.

The law and regulations specifically require employee input through employee representatives. As such, a committee was established within each agency, and representatives from the union were involved in the committee that established the required policy for the agency. DOCCS’ policy is established through Directive #4960.

Other agencies also have workplace violence policies and procedures. For example, OMH has workplace violence policies for each of its facilities. Other State Agencies such as OPWDD have specific policies as well. It is critical that you ascertain your individual workplace violence policy and submit a copy to NYSCOPBA, attention Vinny Blasio, so that NYSCOPBA has every agency’s and/or facility’s workplace violence policy.

For the purpose of today's training, a lot of the discussion will be utilizing DOCCS Directive 4960. We recognize that each agency has their own individual policy; however, by focusing on 4960, the concepts of the workplace violence policy will be discussed and can be applied to other agencies as well. Again, it is critical that you ascertain your individual workplace violence policy.

At the outset, one of NYSCOPBA's objectives is to gather the necessary data of assault on all staff at all agencies. By understanding the workplace violence law, its history and individual policies of your department and/or agency, you will be able to gather the necessary data and make sure that the State and the individual agencies take appropriate actions to insure members' safety. It is imperative that at the end of the training, you learn to identify workplace violence incidences, make sure that the incidents are properly documented, that you communicate with your local facility/agency, and provide the specific incidents to NYSCOPBA so that appropriate action can be taken on a Statewide basis.

GOALS AND OBJECTIVES OF TRAINING

1. At the conclusion of training, you will be able to identify workplace violence.
2. You will be provided the tools to address workplace violence situations.
3. Documentation - - to fully understand and address the gravity of workplace violence, it must be documented.
4. Insure that the identical work place incidents are alleviated and/or prevented in the future.
5. Properly report all incidents of workplace violence.
6. Report to DOCCS and/or your individual agency central headquarters the incidents of workplace violence.
7. Report the incidents of workplace violence to NYSCOPBA.
8. Members at the local level need to be involved.

Please note that it is impossible to cover every situation in four hours of training. However, if you can identify workplace violence and take action and know that NYSCOPBA is available to assist you, we will be able to utilize the law to reduce the amount of violence/assaults and other workplace violence at your work location.

OBJECTIVES

TERMINAL OBJECTIVE:

At the end of the training, the member will demonstrate a greater understanding of Workplace Violence regulations as they relate to DOCCS and other agencies through a group discussion.

ENABLING OBJECTIVE #1: (1 hour)

The member, at the end of the training session will be able to explain the definition of Workplace Violence as described by New York State Department of Labor.

ENABLING OBJECTIVE #2: (1 hour)

The member will be able demonstrate their understanding of the Workplace Violence Prevention program as described in DOCCS directive #4960, through a group discussion.

ENABLING OBJECTIVE #3: (1 hour)

After a group discussion, the member will be able to demonstrate their ability to complete forms used in the DOCCS Workplace Violence Prevention program.

ENABLING OBJECTIVE #4: (1 hour)

The member, after a group discussion and becoming familiar with related forms, will understand the importance of being an active participant of Workplace Violence Prevention programs.

WHAT IS WORKPLACE VIOLENCE

ENABLING OBJECTIVE #1: (1 hour)

At the end of the training session, the member will be able to explain the definition of Workplace Violence as described by New York State Department of Labor.

New York State Department of Labor 12NYCRR part 800.6 defines workplace violence as: Any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment including but not limited to:

- An attempt or threat whether verbal or physical, to inflict physical injury upon an employee.
- Any intentional display of force which would give an employee reason to fear or expect bodily harm.
- Intentional and wrongful physical contact with a person without his or her consent that entails some injury.
- Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

Other terms defined by 12 NYCRR 800.6:

WORKPLACE - Any location away from an employee's domicile, permanent or temporary, where an employee performs any work-related duty in the course of his or her employment by an employer.

IMMINENT DANGER - Any condition or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided.

SERIOUS PHYSICAL HARM - Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ, or sexual offense as defined in Article 130 of the Penal Law.

AUTHORIZED EMPLOYEE REPRESENTATIVE - An employee authorized by the employees or the designated representative of an employee organization recognized or certified to represent the employees pursuant to Article 14 of the Civil Service Law.

SERIOUS VIOLATION - A serious violation of the public employer workplace violence prevention program (WVPP) is the failure to:

- Develop and implement a program.
- Address situations which could result in serious physical harm.

RETALIATORY ACTION - The discharge, suspension, demotion, penalization or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

Exercise #1

Using the defined terms in a group discussion review the four examples of workplace violence given with the definition.

Exercise #2

John T. Miller a 50 year old truck driver who claimed that child-support payments had ruined his life walked into the Schuyler County office building and fatally shot four women whose jobs were to track down and collect support money. Miller walked into the office building at 10:00 a.m. carrying a briefcase and a duffel bag; there were no security checkpoints in place. Police confirmed that one of the bags carried by Miller was filled with ammunition. The County Sheriff went on record saying there was no security in the county office building because, "If a person is deranged enough, if they don't do it here, they do it someplace else".

If this occurred today, would this situation meet the definition of workplace violence? Why or why not?

What should be done?

- a. What steps should be followed?

RISK EVALUATION and DETERMINATION

The employer is responsible for assessing the employees' work environment for the risk factors (hazards) they are actually or potentially exposed to. The regulation requires the participation of the Authorized Employee Representative during this process.

In order to be sure that a risk evaluation is conducted as per the Workplace Violence Prevention Program, it is important that the employee understands the definition of Workplace Violence as described in 12NYCRR 800.6.

Any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment including but not limited to:

- An attempt or threat whether verbal or physical, to inflict physical injury upon an employee.
- Any intentional display of force which would give an employee reason to fear or expect bodily harm.
- Intentional and wrongful physical contact with a person without his or her consent that entails some injury.
- Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

Key points of conducting risk evaluation:

1. **Record Examination** (12NYCRR 800.6 f.1) The employer shall examine any records relevant to the purposes of this part in its possession...
A review of the employee accident and illness statistical information (form 1592 from directive #4065, maintained by the Fire & Safety Office) may help identify trends and types, causes and severity of injuries. NYS is required to maintain the SH900 log of Occupational Injuries and Illnesses. Where physical assaults are a frequent occurrence, evaluating workers' compensation claims may be useful.
2. **Administrative Risk Factors** (12NYCRR 800.6 f.2) The employer shall assess relevant policies, work practices, and work procedures that may impact the risk of workplace violence.
A review of existing policies, for example: violence prevention, red dot responses, use of force/ restraints, critical incident management, workplace conflict, and facility policies. Gaining input from security and civilian staff may also provide valuable information on risk factors of workplace violence.

3. **Evaluation of Physical Environment** (12NYCRR 800.6 f.3) The employer with the participation of the Authorized Employee Representatives, shall evaluate the workplace to determine the presence of factors which may place employees at risk of workplace violence. There are tools available by the New York State Department of Labor to aid in performing such an evaluation. Factors which might place an employee at risk include but are not limited to:
 - a. Working in a public setting (i.e. transportation of inmates, outside hospital details, work crews, facility lobby, inmate visit process).
 - b. Working late at night or early mornings (i.e. less staff on duty, less programs).
 - c. Working alone or in small numbers.
 - d. Working in a location with uncontrolled public access, or uncontrolled inmate/patient access.
 - e. Areas of previous security problems.

Evaluation of Physical Environment (12NYCRR 800.6 f.3)

A physical workplace evaluation should consider the need for security improvements based on the type of setting and other occupational factors.

This part of the assessment will look at a building access, lighting, door locks, alarms, isolated spaces, etc.

Form #2098 "Monthly Safety, Environmental Services and Workplace Violence Inspection Report" as utilized in directive #4066 is a useful form to document concerns of the physical work environment on a monthly basis. Form #2098 is reviewed by the facility Deputy Superintendents, Superintendent, Fire & Safety Coordinator (Albany), and Director of Facility Planning (Albany)

Throughout the risk evaluation process, the group should document its findings. These records may be used to guide the development of plans to remedy the risk, and used to gauge the success of plans that are enacted as a result of an identified risk.

Implementing Prevention Control Measures

The employer is responsible for analyzing the risk evaluation data to determine appropriate control measures that will prevent or reduce workplace violence. Feasible control measures should be implemented as soon as possible. Some hazard controls will require research, budgetary, or capital projects. It is important to document such planning.

There are three main types of control measures, referred to as the “hierarchy of control measures”:

1. **Engineering Controls** - eliminate or reduce the hazard through substitution or design.
 - a. increased lighting.
 - b. adding security features to buildings.
 - c. eliminating isolated work areas.

2. **Administrative Controls** - eliminate or reduce the hazard by changing organizational policies and procedures.
 - a. increased staffing.
 - b. developing building access control procedures.
 - c. Cross shift communication to share information.
 - d. eliminate “idle time” for large groups of inmates/ patients.
 - e. personal alarms.
 - f. Training.

3. **Personal Protective Equipment (PPE)**
 - a. Gloves.
 - b. Respirators.
 - c. Body armor.

The employer has a responsibility to address all risk factors that their employees are potentially exposed to.

An effort should be made to eliminate the hazard whenever possible. When total hazard elimination is not possible, try to change the way the job is performed, assigned, or scheduled to reduce the hazard.

Training should not be relied upon as the only control measure.

Implementation of control measures should have a balanced approach to changing individual worker practices versus organizational behavior.

Summary

Before the “hierarchy of control measures” (Engineering, Administrative, PPE) can be utilized to eliminate workplace hazards, a risk evaluation must be conducted.

The risk evaluation can be conducted in three different ways:

1. Record Examination
2. Administrative Risk Factors
3. Evaluation of Physical Environment

ENABLING OBJECTIVE #2 (1 hour)

The member will be able to demonstrate their understanding of the Workplace Violence Prevention program as described in DOCCS directive #4960, through a group discussion.

Please note that Directive #4960 was last revised on November 3, 2014 and is eleven (11) pages without any attachments.

The directive references:

- NYS Labor Law, Section 27-b
- 12 NYCRR Part 800.6

Additional directives that encompass Workplace Violence are, but not limited to:

- 0700 - Office of the Inspector General
- 2003 - Domestic Violence and the Workplace policy
- 2062 - Diversity Management Complaints
- 2605 - Sexual Harassment in the Workplace
- 4004 - Unusual Incident Reporting
- 4006 - Reporting Inmate Attitude and Behavior
- 4008 - Watch Commander's log
- 4018 - Security Classification Guidelines
- 4026 - Critical Incident Stress Management Plan
- 4064 - Facility Safety
- 4065 - Reporting Injuries and Occupational Illnesses
- 4066 - Facility Safety and Environmental Service Inspections
- 4091 - Logbooks
- 4803 - Inmate Program Placement
- 4910 - Control and Search for Contraband
- 4930 - Tool Control
- 4932 - Chapter 5, Standards Behavior & Allowances
- 4936 - Search of DOCCS Employees
- 6910 - Criminal Prosecution of Inmates
- 6920 - Internal Controls

Workplace Violence Committees

At the facility level:

Workplace Violence Prevention Program Committee (WVPPC) is designated to review any incidents and reports of Workplace Violence. It shall be made up of the Executive team of the facility and local union representatives (Authorized Employee Representative) from all of the unions represented at the facility.

Form 4960A is the form to document results of the meetings held.

The committee shall also conduct an annual Risk Evaluation and Determination. This is in addition to the monthly “Facility Safety & Environmental Services Inspections” which are documented on form 2098 out of Directive 4066.

Issues and incidents requiring immediate attention shall be addressed as they are identified. The Department has determined the D.S.S. or equivalent at each facility will collect reported Workplace Violence incidents for review by the Executive Team and Union Representatives as a means to address correctable issues and ensure follow up action is taken if deemed necessary. (Directive 4960 pg. 3, Section IV-A)

Central Office and Satellite Location Workplace Violence Prevention Committee (COWVPC) is made of Department staff determined by the Commissioner and Union Representatives designated by each Union. The function of this Committee is in similar fashion as the WVPPC at the facility level.

Statewide Workplace Violence Prevention Committee (SWVPC) is made of Department staff determined by the Commissioner and Union Representatives as designated by each Union.

The main function of the SWVPC is to conduct an annual review of the Department’s overall Workplace Violence Prevention Program and to review Workplace Violence Prevention Program related issues with statewide implications.

WORKPLACE VIOLENCE INCIDENT LOG

The Deputy Superintendent of Security (DSS) will maintain a log of incident of Workplace Violence. The log shall maintain the following fields:

- date
- time
- location
- description of incident
- injuries
- witnesses
- action taken

Other ways Workplace Violence data may be collected:

1. **Unusual Incident Reporting System** - *Directive 4004* defines several categories of UIs that fall under the definition of Workplace Violence.
Reporting - UIs that depict an incident of Workplace Violence shall be identified upon review of the final report and forwarded to the DSS. An automated report under this system is generated monthly and forwarded to the DSS.
2. **Watch Commander’s Log** - *Directive 4008* directs the Watch Commander to chronologically record all significant events as they occur, and serves as a reference record for the Executive Team and supervisory staff.

3. **Monthly safety & Environmental Services Inspection Reports** - *Directive 4066* describes how each facility will have a committee of managerial staff and Union Representatives. Each month committee members tour designated areas of the facility and report their findings on the monthly report (form 2098). These meetings allow for the review of the conditions or practices that could lead to potential incidents of Workplace Violence.
4. **Inmate Disciplinary System** - the system reports incidents of inmate misbehavior regarding a wide variety of rule violations including assaults and threats on staff. The Hearing Officer has a place to note if the incident was Workplace Violence.
Reporting - Incidents that contain Workplace Violence will be identified. An automated report will be generated monthly and forwarded to the DSS.
5. **Population Management Committees** - made up of staff designated by the First Deputy Superintendent or DSS. This committee monitors certain inmate activity and routinely evaluates information which is obtained from all areas ensuring data is collected in one central area.
Reporting - Information reported to this committee is a critical component for Risk Evaluation and Determination. The DSS is responsible to ensure that appropriate information from this committee is reviewed by the WVPPC.
6. **Labor Management Meeting Minutes** - *Directive 2104* is a forum for management and labor to discuss issues of interest in an attempt to reach mutually acceptable resolutions, foster good communication, and to provide a safe workplace.
7. **Occupational Accidents/ Injuries** - *Directive 4065*, recordable occupational injuries are investigated by the Facility Fire & Safety Officer and the area supervisor. Monthly reports are available on form #1592 for employees and form #1593 for inmates.
8. **Internal Audit Guides** - *Directive 6920* directs each facility to complete an Annual Internal Audit Guide that is a self-audit tool with questions covering a broad range of facility policies and procedures from every major discipline. Negative responses require explanation and are followed up with appropriate Central Office staff.
9. **Departmental Correspondence** - *Directive 0010*, All Workplace Violence related correspondence, including employee/ supervisory memorandums, is to be responded to as quickly as possible and, if deemed necessary, referred to appropriate Department Divisions (i.e. IG, Diversity Management, Labor Relations, etc.) for response.
Reporting - according to *Directive 4960* any correspondence received from an employee, supervisory, or Union Representative that involves an incident of Workplace Violence shall be evaluated.

Note - If a reported incident of Workplace Violence has been documented as a UI or Inmate Misbehavior report, no additional reporting is required. (*Directive 4960*, pg. 7)

REPORTING REQUIREMENTS

Any employee who believes that he or she is the victim of Workplace Violence is to submit a written report to the supervisor, Superintendent, or a Union Representative. It is the responsibility of all employees to report all threatening behavior, whether from an inmate, the general public, or another employee (regardless of rank/ title) so appropriate action can be taken immediately.

Responsibility of Employee

1. Immediately notifies his or her supervisor of a condition that may be a possible Workplace Violence threat.
2. Completes a memorandum consisting of:
 - a. date & time
 - b. location
 - c. description of incident
 - d. injuries
 - e. witnesses
 - f. UI or UOF number
 - g. any other information that may specify the situation and submits the information in writing to the supervisor

Responsibility of the Supervisor

1. Must take appropriate action
2. Forward the memorandum to the DSS to ensure the document is entered into the Workplace Violence log.

Responsibility of the DSS

1. Collect all reported incidents of Workplace Violence through multiple reporting systems including memorandum
2. Maintain the reports for internal review, inspection by Department of Labor, and for presentation to the WVPPC during the annual review.

Responsibility of Union Representative

NYSCOPBA has the obligation to represent its members regarding terms and conditions of employment. As part of that responsibility, NYSCOPBA is responsible to administer the collective bargaining agreement.

On December 29, 2009, NYSCOPBA filed an improper practice charge with PERB challenging that Directive 4960 as being wrought with references to union representatives and their responsibilities in the Workplace Violence Program. NYSCOPBA argued that in Directive 4960, DOCCS assigns duties, responsibilities and managerial functions to NYSCOPBA's stewards in

their union capacity that require union stewards to submit reports against NYSCOPBA members that may lead to the discipline of NYSCOPBA's members. After a conference with the Public Employment Relations Board (PERB) Assistant Director Susan Comenzo, the parties agreed that, with respect to members of the Security Services Unit, the terms "union representative" and "authorized employee representative" in Directive 4960 refers to only those individuals designated by NYSCOPBA and will not apply to any other individuals, including union officials, not designated by the bargaining agent. This directive does not affect any of the rights and responsibilities of union stewards, including privileged communications.

The confidentiality that union officials possess with its membership is critical to proper representation. This agreement recognizes the importance of that privilege. It is important that the union designate an individual to assist with workplace violence complaints.

Summary

All staff have an obligation to be an active part of an effective Workplace Violence Program. The employee has a responsibility to report potential Workplace Violence situations. The supervisor has the responsibility to take appropriate action based on the information forwarded by the subordinate. The DSS has the responsibility to collect and maintain Workplace Violence reports, as well as forward the matter "further up the ladder" if he or she deems necessary.

There are at least ten (10) different ways Workplace Violence is reported. Some are automated reports sent to the DSS, others are manual reports. Educating yourself and fellow members on the different ways Workplace Violence is reported may increase the accuracy of the reports.

When filing a Workplace Violence incident be mindful to include all the information requested per Directive 4960, to insure the incident can be dealt with efficiently and accurately.

Active participation at meetings such as Environmental & Health Services, Labor Management, Population Committee, and the Workplace Violence Prevention Program Committee will increase your awareness of how possible Workplace Violence matters are dealt with at your facility.

Matters not resolved at the facility level may be able to be forwarded to the Statewide Workplace Violence Prevention Committee if there might be statewide implications.

Directive 4960 relies on several other Directives to aid in identifying, reporting, investigating, and mitigating Workplace Violence related issues.

ENABLING OBJECTIVE #3 (1 HOUR)

After a group discussion, the member will be able to demonstrate their ability to complete forms used in the DOCCS Workplace Violence Prevention program.

There are several forms used within DOCCS. The list below is not a complete list of the forms used in the Workplace Violence Program. The forms below were either mentioned in the training program or Directive 4960.

SH-900 Log - NYSDOL log of Work Related Injuries and illness Form 1203

SH-900 Log -

This NYS Department of Labor must be completed by the facility. It is also included in the annual meeting at the facility level. The form must be retained for five years.

This form must be filled out to report every:

- death,
- work-related injury,
- or illness that involves loss of consciousness, restricted work activity, days away from work, or medical treatment beyond first aid

Form 1203 -

Employee accident/ injury report should be completed any time an employee is injured while on duty. Accurate information is important for the Fire & Safety Officer to be able to complete form 1592.

Statement of Employee (#12 on form) is an opportunity to state how the Workplace Violence incident is related or caused the injury.

Name of Witnesses (#15 on form) may be used to further gain information of a Workplace Violence incident. Additionally, injuries from the same Workplace Violence incident will be able to be connected.

Including the Use of Force or Unusual Incident number on form 1203 is a good habit to be able to reference more material detailing the Workplace Violence incident at later date.

EMPLOYEE ACCIDENT / INJURY REPORT

DELIVER THIS REPORT TO PERSONNEL WITHIN 24 HOURS
(#1 - 14 to be completed by Employee)

Personnel use Only (check one)	<input type="checkbox"/> Lost Time
	<input type="checkbox"/> No Lost Time

1. Facility		2. Date of Accident	
3. Time of Accident		4. Place of Accident	
5. Employee Name		6. Title	
7. Employee Work Location		8. Shift	
		9. Pass Days	
10. Employee remained on duty? Yes <input type="checkbox"/> No <input type="checkbox"/>		11. Employee required medical attention? Yes <input type="checkbox"/> No <input type="checkbox"/>	
12. Statement of Employee 			
Note: Secondary Employment: A preexisting authorization for outside employment will be automatically reviewed for any period of time that an employee is on a Limited Duty assignment or absent from work as a result of an illness or injury (see Directive #2218, "Outside Employment").			
13. Signature of Employee: _____		14. Date: _____	
15. Name of Eyewitnesses: _____			
16. Statement of Supervisor: _____			
17. Supervisor's Name		18. Supervisor's Signature	
_____		_____	
		19. Date	

FACILITY HEALTH SERVICES REPORT

20. Evaluation/Findings: _____ 	
21. Services Provided: <input type="checkbox"/> First Aid/Assessment <input type="checkbox"/> Medical Treatment: _____ 	
22. Personal Physician of Injured Employee: _____ Phone No.: _____ Address: _____	
23. Date Injury Reported to Medical Unit: _____	24. Time: _____
25. Signature: _____	26. Title: _____

Form 1592

Employee/ Volunteer accident log is maintained by the Fire & Safety Officer at each facility.

It is the Fire & Safety Officer's responsibility to investigate any injury that would be recordable on form SH-900. A complete and detailed submitted form 1203 will assist the Fire & Safety Officer in identifying injuries and illnesses that have to be investigated.

Another function of the Fire & Safety Officer is to forward any Workplace Violence related incidents or injury reports to the DSS for review and appropriate action.

Form 1592 may be used to compare injuries received by the Fire & Safety Officer to the injuries reported on SH-900.

Form 2098

Monthly Safety, Environmental Services and Workplace Violence Inspection Report

The facility Safety and Environmental Services Committee shall be responsible to ensure that a complete inspection of the facility is conducted once a month. No Committee member should inspect any area for which he/ she is responsible. The Fire/ Safety Officer should accompany a different committee member on each monthly inspection. These inspections should determine whether:

- a. The quality of work meets established standards.
- b. The areas inspected are safe and clean and control of pests is evident.
- c. There are situations which are or may become health, fire, or safety hazards.
- d. There are any areas needing improvements of maintenance.
- e. The housing areas are properly heated and ventilated.
- f. The exteriors of buildings and grounds are free from safety hazards.
- g. The environmental controls and standards are satisfactory.
- h. The safety equipment is being used as required.
- i. The food service areas are free of imminent health hazards such as poor sanitary practices.
- j. The appropriate action to remedy problems and follow up on corrective action delegated to other persons has been taken.
- k. Workplace Violence risk factors are present.

Role of Union Representatives - Serve as members of the Committee: suggest improvements in the conditions of the workplace and perform any other duties assigned by the Chairperson.

NOTE: If during the inspection an area of serious concern is discovered, it shall be reported immediately to the Chairperson who shall notify the Superintendent. The Superintendent may take appropriate action to remedy the problem or bring it to the attention of the appropriate Central Office Executive.

The Committee Secretary will consolidate the individual reports identifying only the rated deficiencies on electronic mail and submit the consolidated deficiency report to the Chairperson.

The Committee Chairperson will review the report and transfer it to the Superintendent with their comments within ten working days of the completion of each monthly inspection.

Form #2098 is to be retained for three years.

MONTHLY SAFETY, ENVIRONMENTAL SERVICES AND WORKPLACE VIOLENCE INSPECTION REPORT

BUILDING # / AREA: _____ Inspection

SAFETY FACTORS

- A. ___ Are Receptacles Overloaded
- B. ___ Emergency Equipment Available
- C. ___ Emergency Lights Working
- D. ___ Emergency Routes Posted
- E. ___ Emergency Exits Unobstructed
- F. ___ Fire Extinguisher Charged/Ready
- G. ___ Fire Hose Cabinets Clean-Hoses Empty
- H. ___ Fire or Safety Hazards Present
- I. ___ First Aid Kits/BVMs Complete
- J. ___ Tool Control
- K. ___ Pipe/Duct Insulation
- L. ___ Safety Rules Posted
- M. ___ Safety Practices Observed
- N. ___ Water Leaks
- O. ___ No Smoking Areas Posted/Observed
- P. ___ Hazardous Materials Present
- Q. ___ Cabinets Locked
- R. ___ Form 2092 Maintained and Accurate
- S. ___ Inventory/Contents & Accuracy
- T. ___ AEDs
- U. ___ Eyewash Station
- V. ___ Lockout Tag/Out Program Reviewed
- W. ___ Wet Floor Signs Posted

ENVIRONMENTAL FACTORS

- 1. ___ Baseboards Clean
- 2. ___ Ceilings Clean
- 3. ___ Floors Clean
- 4. ___ Walls Clean
- 5. ___ Windows Clean
- 6. ___ Cells Clean (List Below if Not)
- 7. ___ Shower Area Clean
- 8. ___ Slop Sinks Clean
- 9. ___ Pipe Chases Clean
- 10. ___ Mops Clean and Hung
- 11. ___ Garbage/Trash Cans Covered
- 12. ___ Pests Controlled
- 13. ___ Proper Supplies Used
- 14. ___ Excess Supplies on Hand
- 15. ___ Proper Heat/Ventilation
- 16. ___ Repairs Required
- 17. ___ Posted Housekeeping Plans

WORKPLACE VIOLENCE FACTORS*

- I. ___ Adequate Lighting
- II. ___ Locking Devices
- III. ___ Doors/Gates Operational
- IV. ___ Personal Alarm Device
- V. ___ Visibility/Sight Lines
- VI. ___ Other

Date: _____

ITEM	COMMENT DEFICIENCIES	CORRECTIVE ACTION, DATE, SIGNATURE

INSPECTED BY _____

Mark "S" if Satisfactory
 "U" if Unsatisfactory
 "N/A" if Non-Applicable

Dist: 1st - Original for File
 2nd - Retain for Reference in Next Inspection
 3rd - Area Supervisor for Corrective Action
 4th - Leave in Area Inspected for Corrective Action
 3&4 - Return to Chairman when all Deficiencies
 Are Corrected

NOTE: Deficiencies are to be corrected. How they were corrected is to be noted in the column provided. This completed form is to be returned to the 1st Dep. Supt's (or Dep. for Admin. for facilities without a F.D.S.) office by c.o.b. _____.

* If any potential Workplace Violence factors are marked as "U" a copy of this report shall be forwarded to the DSS for evaluation and appropriate action if necessary.

RECEIVED BY _____

Form 4960A

Workplace Violence Prevention Program Committee Meeting Minutes

The WVPCC at each facility is designated to review any incidents and reports of Workplace Violence. It shall comprise of the facility Executive Team and union representatives from all unions represented at the facility. Use form 4960A for minutes from meetings.

Additionally the committee shall also conduct an annual Risk Evaluation and Determination as outlined in Section IV of Directive 4960.

Form 4960A - I

A manual or electronic log that will be maintained by the DSS for Correctional Facilities to record incidents of Workplace Violence that are not captured by the automated reporting systems. Workplace Violence issues that are reported via correspondence or memorandum shall be reported in this log.

The log shall contain the following fields: date, time, location, description of incident, injuries, witnesses, and action taken.

Form 4960A-2

In accordance with Directive 4065 "Reporting Injuries and Occupational Illness" recordable occupational injuries are investigated by the facility Fire Safety Officer and the area supervisor or Central Office.

SH-900 Log is filled out to report every death, work-related injury, and/ or illness that involves loss of consciousness, restricted work activity, days away from work, or medical treatment beyond first aid.

Form 4960A-3

Review form 2098, specifically Workplace Violence Factors Column.

Form 4960A-4

An opportunity to review items discussed and reviewed during Labor Management Meetings.

Form 4960A-5 & 6

Review the automated generated reports.

Form 4960A- 7, 8, 9

Population Management Committee reports.

Internal Controls - Directive #6920.

Departmental Correspondence.

_____ **CORRECTIONAL FACILITY**

Workplace Violence Prevention Program Committee Meeting Minutes

(Reporting period: At least annually, or as deemed necessary by the committee)

Date of Meeting: _____

For each set of data if workplace violence incidents are reported, list the incident and date and review to determine if appropriate action was taken at the time. If the committee does not reach a consensus, the incident and related background information should be forwarded to the Statewide Workplace Violence Prevention Program Committee (SWPPC). Please indicate if no workplace violence incidents were reported.

I. REVIEW OF WORKPLACE VIOLENCE INCIDENT LOG (Dir. #4960, section IV-A-2-e):

- 1.
- 2.
- 3.
- 4.

II. REVIEW OF SH-900 AND SH-900.1 LOGS:

- 1.
- 2.
- 3.
- 4.

III. FORM #2098, "MONTHLY SAFETY, ENVIRONMENTAL SERVICES AND WORKPLACE VIOLENCE INSPECTION REPORT – (Workplace Violence Factors Column) REVIEW:

- 1.
- 2.
- 3.
- 4.

IV. REVIEW OF LOCAL LABOR MANAGEMENT MEETING MINUTES:

- 1.
- 2.
- 3.
- 4.

V. REVIEW OF UNUSUAL INCIDENT REPORTS (Force Print 15th of each month):

- 1.
- 2.
- 3.
- 4.

- VI. REVIEW OF INMATE DISCIPLINARY SYSTEM (FIDS Force print 15th of each month):**
- 1.
 - 2.
 - 3.
 - 4.
- VII. MISCELLANEOUS (Any other reported information brought by the DSS or committee members, including Union Representatives related to workplace violence, e.g. Memorandums, verbal reports, Population Management information, etc.):**
- VIII. ANNUAL PROGRAM REVIEW/RISK EVALUATION (List risk factors (if any) that are identified as a result of the annual review/risk evaluation. Additionally list any corrective actions taken as a result of data/program review. If consensus cannot be reached, refer to SWVPC and document referral in section IX of this minutes form):**
- IX. STATEWIDE WVPC REFERRAL (Use this section to list workplace violence incidents or related issues for statewide committee referral, briefly list all relevant information and reports as related to the incident and submit to the Assistant Commissioner):**

Form 4960D

Workplace Violence Incident Report.

Each employee who believes he/ she is the victim of Workplace Violence is to submit a written report to his/ her immediate supervisor, or the Superintendent, or Union Representative. (Please make sure a designee is appointed by the union representative).

It remains the responsibility of all employees to report all threatening behavior, whether from:

- an inmate.
- the general public.
- or another employee.

Instances of inmate misbehavior shall continue to be reported with an "Inmate Misbehavior Report".

In the absence of form 4960D the following information must be included in the written complaint:

- date/ time
- location
- description
- injuries
- witnesses
- names & titles of involved employees

The supervisor must take appropriate action, if necessary, and then forward the memorandum to the DSS Office to ensure it is documented in the Workplace Violence Incident Log.

**STATE OF NEW YORK – DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
WORKPLACE VIOLENCE INCIDENT REPORT**

Each employee who believes that he or she is the victim of Workplace Violence is to submit a written report to his or her immediate supervisor, or to the Superintendent or Union Representative. It remains the responsibility of all employees to report all threatening behavior, whether from an inmate, the general public, or an employee, to supervisory staff immediately so appropriate action can take place. The supervisor must take appropriate action, if necessary, and then forward the report to the appropriate area to ensure it is documented in the Workplace Violence Incident Logbook.

Name/Author: _____ Date: _____

A. Workplace Location Where Incident Occurred: _____

B. Time of Day/Shift When Incident Occurred: _____

C. Detail Description of the Incident (include events leading up to the incident and how the incident ended):

D. Name and Job Titles of Involved Employees:

E. Name of Other Identifier of Other Individual(s) Involved:

F. Nature and Extent of Injuries Arising from the Incident:

G. Names of Witnesses:

ENABLING OBJECTIVE #4

The member, after a group discussion and becoming familiar with related forms, will understand the importance of being an active participant of the DOCCS Workplace Violence Prevention Program.

A group discussion will take place to reinforce the information and forms presented.

The information that has been provided is intended to provide a greater understanding and awareness to the NYSCOPBA member of the Workplace Violence regulations that are enforced by the NYS Department of Labor.

REFERENCE MATERIAL:

www.labor.ny.gov

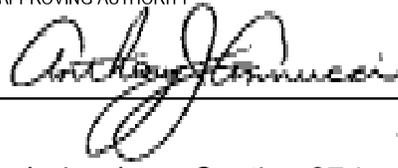
12 NYCRR PART 800.6 and appendices

NYS Labor Law Article 2 sub 27-b

Departmental memorandums (DOCCS)

DOCCS directive #4960 and attachments

DOCCS directive #4066 and attachments

 Corrections and Community Supervision DIRECTIVE	TITLE Workplace Violence Prevention Program		NO. 4960
			DATE 05/24/2016
SUPERSEDES DIR #4960 Dtd. 11/03/2014	DISTRIBUTION A	PAGES PAGE 1 OF 14	DATE LAST REVISED
REFERENCES (Include but are not limited to) NYS Labor Law, Section 27-b; 12 NYCRR, Part 800.6; Article 14 of Civil Service Law; Workers' Compensation Law; Labor Law Section 27-a; Various DOCCS directives	APPROVING AUTHORITY 		

- I. PURPOSE:** In accordance with New York State Labor Law, Section 27-b, public employers are required to develop and implement programs to prevent, minimize, and respond to incidents of Workplace Violence. The New York State Department of Labor (DOL) has outlined the specific program requirements for all affected employers in regulation 12 NYCRR Part 800.6.
- II. POLICY:** In accordance with the regulation, the policy as stated in this directive was developed with full employee participation with input provided by the authorized employee representatives. A major part of the Department of Corrections and Community Supervision's (DOCCS) core mission is to enhance public safety by providing appropriate treatment services for all inmates in workplaces (correctional facilities, field offices, and administrative offices) that are safe, secure, and, to the extent possible, free from Workplace Violence. There are many directives and procedures currently in effect which all work together to create a strong and responsive Workplace Violence Prevention Program (WVPP). The Department does not tolerate Workplace Violence. The policy statement from the Commissioner regarding [WVPP](#) will be posted conspicuously on employee bulletin boards.

The Department is committed to ensuring that any potential risk of Workplace Violence is evaluated by both the Department and Union Representatives as soon as possible. It remains the responsibility of all employees to report all threatening behavior and incidents of Workplace Violence, whether from an inmate, the general public, or another employee, to their immediate supervisor through a memorandum or existing reporting systems, or to the Superintendent, Bureau Chief, Regional Director, Division Head, or Union Representative so appropriate evaluation and action can take place (see Sections IV-C and V-B).

The Department recognizes that the input of its employees is an important component of this Program. Therefore, retaliatory action against any employee that submits a report of Workplace Violence will not be tolerated. Employees are also encouraged to provide suggestions that may improve working conditions with the goal of preventing any future Workplace Violence incidents.

Workplace Violence risk factors within the Department include the following:

- Potential risk of assault from inmates/parolees
- Potential exposure to violent conduct from inmates/parolees
- Potential exposure to threats from inmates/parolees

- The methods the Department utilizes to prevent incidents of Workplace Violence are:
 - Security Controls
 - Written directives, policies, and procedures as described in Section IV
 - Employee training as described in Section VI
 - Personal Protective Equipment
 - Risk evaluations as described in IV-A and V-A

III. DEFINITIONS: As used in or in connection with this directive, the following terms are defined as indicated below:

- A. Authorized Employee Representative: An employee authorized by the employees or the designated representative of an employee organization, recognized or certified to represent the employees pursuant to Article 14 of Civil Service Law. For the purposes of this directive, these individuals will be referred to as Union Representatives.
- B. Imminent Danger: Any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such can be eliminated through the enforcement of the procedures as outlined in this directive.
- C. Retaliatory Action: The discharge, suspension, demotion, penalization, or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.
- D. Risk Evaluation and Determination: An employer's inspection or examination of its workplace, with the participation of Union Representatives, to determine if factors exist that might place employees at risk of Workplace Violence. Refer to Sections IV-A and V-A for requirements.
- E. Serious Violation: A serious violation of the employer's Workplace Violence Prevention Program is the failure to:
 - 1. Develop and implement a Program; or
 - 2. Address situations which could result in serious physical harm.
- F. Supervisor: Any person within the employer's organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule, or regulation to which an employee submits written notice.
- G. Workplace: Any location, permanent or temporary, away from an employee's domicile where an employee performs any work-related duty in the course of his or her employment by an employer.
- H. Workplace Violence: Any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment including, but not limited to:
 - 1. An attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
 - 2. Any intentional display of force which would give an employee reason to fear or expect bodily harm;

3. Intentional and wrongful physical contact with a person without his or her consent that entails some injury;
 4. Verbal abuse that would give a person a reason to fear escalation and bodily harm; or
 5. Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee, when such stalking has arisen through and in the course of employment.
- I. Workplace Violence Committees
1. Workplace Violence Prevention Program Committee (WVPPC): This committee is specific to each correctional facility and Community Supervision, and is designated to review any incidents and reports of Workplace Violence. It shall be comprised of the facility Executive Team and Union Representatives from all of the unions represented at the facility. The committee shall record the results of these meetings via the standardized "Workplace Violence Prevention Program Committee Meeting Minutes," [Form #4960A](#). The committee shall also conduct an annual Risk Evaluation and Determination as outlined in Section IV for correctional facilities and in Section V for Community Supervision field offices. **Note:** Each correctional facility's and community supervision office's physical environment and operations may differ somewhat based on specific programs and operational needs. During the annual Risk Evaluation and Determination any unique condition should be reviewed and appropriate measures taken with the goal of preventing Workplace Violence incidents.
 2. Central Office and Satellite Location Workplace Violence Prevention Committee (COWVPC): This committee is comprised of Department staff as determined by the Commissioner and Union Representatives as designated by each Union. The committee shall review incidents of Workplace Violence and conduct an annual review of the Central Office and Satellite Location Workplace Violence Prevention Program.
 3. Statewide Workplace Violence Prevention Committee (SWVPC): This committee is comprised of Department staff as determined by the Commissioner and Union Representatives as designated by each Union. The main functions of this committee are to conduct an annual review of the Department's overall Workplace Violence Prevention Program and to review Workplace Violence Prevention Program related issues with Statewide implications.
- J. Workplace Violence Types
1. Criminal Intent: Violent acts by perpetrators who have no legitimate connection with the workplace, but who commit a crime against an employee.
 2. Visitor/Inmate: Violence directed at employees by individuals under the supervision of the Department, or any other person who receives services from or has business with the Department or its employees.
 3. Co-Worker: Violence among coworkers, supervisors, managers, or subordinates.

4. Personal: Violence in the workplace by someone who has a personal relationship with an employee. Please refer to Directive #2003, "Domestic Violence and the Workplace Policy."

- K. Workplace Violence Incident Log: A manual or electronic log that will be maintained by the Deputy Superintendent for Security (DSS) for Correctional Facilities, Community Supervision Regional Directors, and the Central Office Liaison to record incidents of Workplace Violence that are not captured by the automated reporting systems. Workplace Violence incidents or issues that are reported via correspondence or memorandum shall be reported in this log. The log shall contain the following fields: date, time, location, description of incident, injuries, witnesses, and action taken.

IV. WVPP – CORRECTIONAL FACILITIES, CENTRAL OFFICE AND SATELLITES

- A. Risk Evaluation and Determination: Due to the risks involved in the daily operation of correctional facilities, the Department continuously evaluates security risk issues through a variety of reporting mechanisms and inspection procedures as defined in numerous Departmental policies. The Department will undertake periodic Risk Evaluations and Determinations in accordance with the regulation.

The risk evaluation of the physical environment shall be carried out at correctional facilities by the Environmental Services Committees. In accordance with Directive #4066, "Facility Safety and Environmental Services Inspections," these committee members conduct monthly inspections of all areas of the facility. These inspections are documented on Form #2098, "Monthly Safety, Environmental Services and Workplace Violence Inspection Report," which includes Workplace Violence risk factors. These forms will be forwarded to the DSS when a Workplace Violence risk is identified for evaluation and appropriate action if necessary. This committee is composed of facility supervisory staff, as well as Union Representatives, and meets monthly to review the results of the inspections and ensure appropriate actions are taken in response to any reported deficiencies (also see Section IV-A-1-c below).

A second major component of the Department's Risk Evaluation and Determination is the review of recordable accidents and illnesses. In accordance with Directive #4065, "Reporting Injuries and Occupational Illnesses," Workers' Compensation Law, and Labor Law Section 27-a, all recordable employee accidents and illnesses are documented and investigated. The Fire and Safety Officer maintains these incident reports and also records them in corresponding logs. Additionally, recordable accidents and illnesses are maintained via the Department of Labor Form SH-900, "Log of Work Related Injuries and Illnesses," and the SH-900.1, "Summary of Work-Related Injuries and Illnesses." The SH-900 log and SH-900.1 report shall be reviewed annually, during the month of February, by the WVPPC. The Fire and Safety Officer, when maintaining the logs, will forward any potential Workplace Violence-related reports to the DSS for review and appropriate action if necessary. The Central Office and Satellite Location Liaison shall provide the COWVPC with the SH-900 log and SH-900.1 report for those locations.

In accordance with 12 NYCRR, Part 800.6(g)(2), the Department will follow a hierarchy of controls consisting of engineering controls, operational procedures, and the use of personal protective equipment as described in Directive #2121, "Personal Protective Equipment."

Issues and incidents requiring immediate attention shall be addressed as they are identified. Additionally, the Department has determined that the DSS or equivalent at each facility will collect reported Workplace Violence incidents for review by the Executive Team and Union Representatives (see Section VII-B below for privacy concerns) as a means to address correctable issues and ensure follow up action is taken if deemed necessary. Facility Operation Manuals (FOMs) shall be reviewed annually in accordance with Directive #6920, "Internal Controls."

Note: For Central Office and Satellite Locations, the collection of reported incidents for review will be carried out by a Liaison as designated by the Commissioner (Central Office Liaison). Risk evaluations at these locations shall be performed by Department staff and Union Representatives under the coordination of the Central Office Liaison and documented on [Form #4960C](#), "Workplace Violence Prevention Risk Evaluation Results."

Workplace Violence Risk Evaluation Data

1. Workplace Violence related data is recorded and reviewed as part of established Department reporting mechanisms. Examples of some of these data generating mechanisms and reporting procedures for correctional facilities include:
 - a. Unusual Incident Reporting System: Statewide electronic system utilized to categorize Unusual Incidents as defined in Directive #4004, "Unusual Incident Report." There are several categories of Unusual Incidents that fall under the definition of a Workplace Violence incident.
 - b. Watch Commander's Log: In accordance with Directive #4008, "Watch Commander's Log," logbook that is maintained by the designated Watch Commander to chronologically record all significant events as they occur during each tour and serves as a reference record for the Executive Team and supervisory staff.
 - c. Monthly Safety and Environmental Services Inspection Reports: In accordance with Directive #4066, "Facility Safety and Environmental Services Inspections," each facility has a committee that shall be composed of both managerial staff and Union Representatives. Each meeting shall continue to be a forum in which concerns and suggestions for improvement in workplace conditions can be resolved. Each month committee members tour designated areas of the facility and report their findings on the monthly inspection report (Form #2098). These meetings allow for the review of conditions or practices that could lead to potential incidents of Workplace Violence.
 - d. Inmate Disciplinary System: The Department's three tiered disciplinary system reports incidents of inmate misbehavior regarding a wide variety of rule violations including assaults and threats on staff. The Hearing Officer has the discretion to impose various confinement/loss of privileges sanctions.
 - e. Population Management Committees: Comprised of facility personnel as designated by the First Deputy Superintendent or DSS. This committee monitors certain inmate activity and routinely evaluates information which is obtained from all areas ensuring data is collected in one central area.

2. Examples of some of these data generating mechanisms and reporting procedures for correctional facilities and Central Office/Satellite Locations include:
 - a. Labor Management Meeting Minutes: Local labor management meetings (see Directive #2104, "Local Labor/Management Committees") are a forum for management and labor to discuss issues of interest in an attempt to reach mutually acceptable resolutions and to foster good communications and to provide a safe workplace.
 - b. Review of Reported Occupational Accidents/Injuries: In accordance with Directive #4065, "Reporting Injuries and Occupational Illnesses," recordable occupational injuries are investigated by the facility Fire and Safety Officer and the area supervisor or Central Office or Satellite Location Liaison.
 - c. Self-Assessment Guides: In accordance with Directive #6920, "Internal Controls," every facility completes an annual Self-Assessment Guide that is an audit tool with questions covering a broad range of facility policies and procedures from every major discipline. Negative responses require explanation and are followed up with appropriate Central Office staff.
 - d. Departmental Correspondence: In accordance with Directive #0010, "Departmental Correspondence," correspondence which defines or interprets Department policy, discusses sensitive or controversial matters, concerns the welfare of inmates, or concerns institutional security will be sent to the Superintendent. All Workplace Violence-related correspondence, including employee/supervisory memorandums, is to be responded to as quickly as possible and, if deemed necessary, referred to appropriate Department Divisions (e.g., Office of Special Investigations, Office of Diversity Management, Bureau of Labor Relations, etc.) for response (see Section IV-C for reporting/recording procedures).
 - e. Workplace Violence Incident Log: Refer to Section III-K.

Note: Workplace Violence incident reporting is not limited to these processes. The expectation is that workplace administrators and Union Representatives at each workplace have an intimate knowledge of the physical layout, areas, and policies that could impact the risk evaluation component.

- B. Additional Protocols: Each Superintendent and the Liaison for Central Office and Satellite Locations shall institute this Workplace Violence Prevention Program that shall include the following:
 1. A procedure whereby, at the time of their initial assignment, and annually thereafter, each employee will be informed and trained on the risks of potential Workplace Violence (see Section VI for training program details).
 2. The requirement that the WVPPC and COWVPC will meet at least annually during the month of February, or as necessary, to be involved in the evaluation of the physical environment, development of the Workplace Violence Prevention Program and the review of the Workplace Violence incidents reported, if any, and the review of the effectiveness of any mitigating actions taken.

3. All staff that generate or review incidents that may be Workplace Violence related shall receive training to ensure that all incidents of Workplace Violence are forwarded to the DSS for appropriate action.
4. Continued utilization and implementation of all DOCCS directives which encompass the Department's core mission, which shall include: identifying, reporting, investigating, and mitigating, if necessary, any Workplace Violence-related issues. Applicable directives include, but are not limited to:
 - a. Directive #0700, "Office of Special Investigations (OSI)"
 - b. Directive #2003, "Domestic Violence and the Workplace Policy"
 - c. Directive #2602, "Diversity Management Complaints"
 - d. Directive #2605, "Sexual Harassment in the Workplace"
 - e. Directive #4004, "Unusual Incident Report"
 - f. Directive #4006, "Reporting Inmate Attitude and Behavior"
 - g. Directive #4008, "Watch Commander's Log"
 - h. Directive #4018, "Security Classification Guidelines"
 - i. Directive #4026, "Critical Incident Stress Management Plan"
 - j. Directive #4064, "Facility Safety"
 - k. Directive #4065, "Reporting Injuries and Occupational Illnesses"
 - l. Directive #4066, "Facility Safety and Environmental Services Inspections"
 - m. Directive #4091, "Logbooks"
 - n. Directive #4803, "Inmate Program Placement"
 - o. Directive #4910, "Control of & Search for Contraband"
 - p. Directive #4930, "Tool Control"
 - q. Directive #4932, "Chapter V, Standards Behavior & Allowances"
 - r. Directive #4936, "Search of DOCCS Employees"
 - s. Directive #6910, "Criminal Prosecution of Inmates"
 - t. Directive #6920, "Internal Controls"
5. Incidents that may require criminal prosecution shall be referred to the appropriate law enforcement agencies in accordance with Department policy.
6. A Statewide Workplace Violence Prevention Program Committee comprised of key Department staff as designated by the Commissioner and Union Representation shall be established. This committee shall meet at least annually during the month of February, or as necessary, to review Workplace Violence issues of Statewide significance and to conduct a review of the Department's Workplace Violence Prevention Program policy.

C. Reporting Requirements

1. Each employee who believes that he or she is the victim of Workplace Violence is to submit a written report (i.e., memorandum or [Form #4960D](#), "Workplace Violence Incident Report") to his or her immediate supervisor, or to the Superintendent or Union Representative. It remains the responsibility of all employees to report all threatening behavior, whether from an inmate, the general public, or an employee, to supervisory staff immediately so appropriate action can take place.

Note: Instances of inmate misbehavior shall continue to be reported via Form #2171, "Inmate Misbehavior Report," in accordance with Directive #4006, "Reporting Inmate Attitude and Behavior."

- a. The memorandum shall provide all necessary details (e.g., date, time, location, description, injuries, witnesses, names and titles of involved employees, etc.) regarding the incident including the names (or descriptions) of those involved.
 - b. The supervisor must take appropriate action, if necessary, and then forward the memorandum to the DSS Office to ensure it is documented in the Workplace Violence Incident Log.
2. A record of all reported incidents of Workplace Violence will be forwarded to the DSS or to the Liaison for Central Office and Satellite Locations. The DSS and the Central Office Liaison will collect the reports, as described below, to be maintained for internal review, inspection by DOL inspectors, if necessary, and for presentation to the WVPPC during the annual review in February. The annual review shall include a summary of Workplace Violence incidents to identify any potential risk factors or trends, and review of applicable directives and local procedures that enhance the Workplace Violence Program.
 - a. Unusual Incident Reports (UIR): Unusual Incident Reports which depict an incident of Workplace Violence, as defined in this policy, shall be identified upon review of the final report and forwarded to the DSS. In conjunction, an automated report will be generated monthly and forwarded to the DSS at each facility.
 - b. Facility Inmate Disciplinary System: Inmate misbehavior reports that contain incidents of Workplace Violence will be identified. An automated report will be generated monthly and forwarded to the DSS at each facility.
 - c. Population Management Committees: Information reported by this committee is a critical component for Risk Evaluation and Determination. This committee reviews trends and reports from various areas of the facility to mitigate potential problems and to take corrective action when necessary. The DSS is responsible to ensure that appropriate information from this committee is reviewed by the WVPPC. However, it should be noted that the DSS has the discretion to withhold confidential security information or personal information described in Section VII, which, if disclosed, could compromise the secure and orderly operation of the facility.

- d. Departmental Correspondence: In accordance with this directive, any correspondence (including memorandum) received from an employee, supervisor, or Union Representative that involves an incident of Workplace Violence shall be evaluated. If it is determined that a reported incident meets the criteria for an Unusual Incident or Misbehavior Report and neither has been filed, then such reports shall be immediately prepared. Reported incidents that do not meet the criteria of an Unusual Incident or Misbehavior Report shall be forwarded to the DSS for entry into the Workplace Violence Incident Log as referenced in Section III-K.

Note: If a reported incident of Workplace Violence has been documented as a UIR or Inmate Misbehavior Report, no additional reporting is required.

- e. The facility Executive Team will ensure that follow up action has been taken, if deemed necessary, which may include referral to areas such as: the Office of Diversity Management, Office of Special Investigations, Bureau of Personnel, or Bureau of Labor Relations, Employee Assistance Program, etc.

3. Unresolved issues raised by the WVPPC shall be forwarded to the SWVPC.

V. WVPP - COMMUNITY SUPERVISION PROTOCOLS FOR REGIONAL AND FIELD OFFICES

A. Risk Evaluation and Determination

The Workplace Violence Prevention Risk Evaluation and Determination is intended to evaluate the presence of Workplace Violence risk factors. Identification and evaluation of risk factors in a structured and systematic way will enable Community Supervision to develop measures to reduce Workplace Violence. Involvement of employees and their Union Representatives is a critical component of the Workplace Violence Prevention Program and increases the likelihood that all significant risk factors are identified and that safety measures are feasible and effective.

In accordance with 12 NYCRR, Part 800.6(g)(2), the Department will follow a hierarchy of controls consisting of engineering controls, operational procedures, and the use of personal protective equipment as described in Directive #2121, "Personal Protective Equipment."

1. Risk evaluations for each work location shall be conducted under the supervision of the Bureau Chief as follows:
 - a. An initial risk evaluation shall be conducted utilizing the applicable evaluation tool, [Form #4960B](#), "Community Supervision Risk Evaluation." An initial evaluation will be conducted for a new work location prior to move in.
 - b. Thereafter, an annual risk evaluation of each work location shall be conducted utilizing the applicable evaluation tool.
 - c. Complaint evaluations will be conducted if an employee complains to his or her supervisor about a risk of Workplace Violence, evaluating the specific alleged risks.
 - d. A post evaluation shall be conducted using the "Workplace Violence Prevention Risk Evaluation Results," [Form #4960C](#).

2. Responsibility for conducting Risk Evaluations and Determinations: In each Community Supervision worksite, risk evaluations are to be conducted by worksite teams comprised of a member of management and a member from the PEF, CSEA, and NYSCOPBA Health and Safety Committee, or their respective designees.
3. Each workplace risk evaluation shall be reviewed at the regional level, to identify trends and provide opportunities to minimize risks through a data review.

The data review consists of evaluating injury and workers' compensation, UIRs, and Workplace Violence incident reports. The Bureau of Personnel will provide the SH-900, "Log of Work Related Injuries and Illnesses," for evaluation. This log will be reviewed on an annual basis and will be given to the Health and Safety Committee in the first quarter of each calendar year.
4. A physical inspection of the workplace will be performed utilizing a Risk Evaluation and Determination form for the initial and annual evaluations.
5. The risk evaluation shall include a review of relevant policies as applicable in Section IV-B-4.
6. Conduct periodic surveys to obtain information from staff relative to Workplace Violence.
7. The risk evaluation processes and results shall be discussed by authorized designees from PEF, CSEA, NYSCOPBA, and management.

This will ensure appropriate union and management collaboration in the identification of risks and in evaluating potential interventions.
8. In evaluating and reporting on risk factors, the group shall consider all of the data in the risk evaluation as follows:
 - a. Identify each risk
 - b. Evaluate the risk
 - c. Prioritize the risk
 - d. Suggest an action plan to mitigate/eliminate the risk
 - e. Identify technical assistance needed to address the risk
9. If the group is unable to reach consensus regarding the necessary actions resulting from the risk evaluation, the issue will be referred to the Regional Director and to the SWVPC if still there is no resolution. In cases where there is an allegation of imminent danger, the review will be expedited through the SWVPC.
10. Where corrective action is warranted, the Regional Director shall take the necessary steps following Agency protocols. In work locations not under a Regional Director, the manager in charge of the work location shall take the necessary corrective action. In the event that there is imminent danger, the risk will be immediately evaluated and addressed.
11. Evaluation Reporting: Upon completing the Risk Evaluation and Determination, the committee will prepare a report, identifying potential risks and solutions, and forward it to the Deputy Commissioner for Community Supervision and the appropriate Regional Director.

B. Reporting Requirements

1. Identification of Possible Workplace Violence Conditions
 - a. Employee Responsibility
 - (1) Immediately notifies his or her supervisor, or the supervisor on duty, of a condition that may be a possible Workplace Violence threat.
 - (2) Completes a memorandum, consisting of date, time, location, description, injuries, witnesses, etc., or UIR, as necessary, specifying the situation and submits it to the supervisor.
 - b. Immediate Supervisor
 - (1) Evaluates the situation and mitigates it immediately, if appropriate and feasible.
 - (2) Gives the memorandum or UIR, along with an evaluation and other comments, to the Regional Director for review.
 - c. Management/Administrative
 - (1) Evaluates the situation and mitigates the problem, if feasible.
 - (2) A written response will be issued to the complainant.
2. Incidents of Workplace Violence Occurring on Community Supervision Premises
 - a. Employee Responsibility
 - (1) Immediately notifies his or her supervisor, or the supervisor on duty, of the incident.

Note: In some instances, the situation may be considered of a sufficiently urgent nature that the employee should immediately contact appropriate law enforcement agency and/or summon emergency medical assistance immediately, if necessary, and then advise the supervisor. If law enforcement is notified, advise responding officers that Parole Officers are armed.
 - (2) Follows up the verbal report by completing a UIR, as necessary, and submitting it to his or her immediate supervisor within 24 hours.
 - b. Immediate Supervisor
 - (1) Evaluates the incident described. If it is expected that the incident can affect an employee's safety, immediate action will be taken to notify the appropriate law enforcement agency and/or summon emergency medical assistance.
 - (2) Immediately notifies the appropriate highest level management/administrative staff person.
 - (3) Upon receipt of the UIR and Accident Reports, or if the employee is unavailable, completes the appropriate section for supervisor on the form and immediately forwards it to the appropriate Regional Director.
 - c. Regional Director
 - (1) Completes the appropriate section of the UIR and submits it to appropriate staff.

- (2) Initiates an investigation into the incident or contacts appropriate Bureaus (Labor Relations, program area) to proceed with the investigation.
3. Record Keeping: The Regional Director's office shall maintain a record of all reports of potential physical plant conditions, their outcomes, and necessary corrective actions. Additionally, a written record of all reports of Workplace Violence, copies of the UIRs, evaluation reports, and incidents from the Workplace Violence log. These records shall be kept for a period of ten years.

VI. EMPLOYEE INFORMATION AND TRAINING: All employees should be provided with the following information and training on the risks of Workplace Violence in their workplace or workplaces at the time of their initial assignment and annually thereafter.

A. Employee Workplace Violence Prevention training shall include:

1. An initial training component for all employees that provides a comprehensive overview of the Department's Workplace Violence Prevention Program.
2. An annual refresher component
 - a. A training bulletin for review by each employee that will provide a refresher on the goals and objectives of the Department's Workplace Violence Prevention Program.
 - b. The measures employees can take to protect themselves from Workplace Violence risks as identified by the Risk Evaluation and Determination, except that nothing in this directive shall require the disclosure of the information otherwise kept confidential for security reasons as identified in Section VII below. This shall include specific procedures the employer has implemented to protect employees, such as appropriate work practices or emergency procedures, that are specific to the work area/location.
 - c. Inform employees of the measures that employees can take to protect themselves from the identified risks, including specific procedures that the employer has implemented to protect employees such as incident alert and notification procedures, appropriate work practices, emergency procedures, and use of security alarms and other devices.
 - d. Inform employees of the location of the written Workplace Violence Prevention Program directive and how to obtain a copy, and make it and other directives available for reference to employees, authorized employee representatives, and the supervisor in the work area during the regularly scheduled shift.
3. This directive shall be reviewed with each new employee as part of his or her initial Orientation Package and shall be provided to employees.

B. Related Training

1. All new Corrections employees are provided with the Orientation Handbook, "Correctional Dynamics," which outlines potential risks employees may encounter in the workplace and the means to address them.
2. Training will be provided for Community Supervision work-site teams that will conduct the Workplace Violence risk evaluation.

3. All employees (both security and civilian staff) receive routine training that outlines risks and potentially dangerous situations that can arise in their specific work areas and the methods and techniques for staff to implement to avoid and/or deal with such risks/situations.

VII. STATEMENT OF CONFIDENTIALITY: Nothing in this directive shall require the disclosure of personal information otherwise kept confidential for security reasons except as may be necessary to implement the provisions of this directive.

- A. Such personal information may include information which, if disclosed:
 1. Would interfere with law enforcement investigations or judicial proceedings;
 2. Would deprive a person of a right to a fair trial or impartial adjudication;
 3. Would identify a confidential source or disclose confidential information relating to a criminal investigation;
 4. Would reveal criminal investigative techniques or procedures, except routine techniques and procedures; or
 5. Would endanger the life or safety of any person.
- B. If the case is a “privacy concern case” as defined below, the employer shall still be liable for reporting the Workplace Violence incident. However, before sharing a copy of the incident report with any party other than the Commissioner of Labor, the employer shall remove the name of the employee who was the victim of the Workplace Violence and shall instead enter “PRIVACY CONCERN CASE” in the space normally used for the employee’s name.
 1. The employer shall treat incidents involving the following injuries or illnesses as privacy concern cases:
 - a. An injury or illness to an intimate body part or the reproductive system;
 - b. An injury or illness resulting from a sexual assault;
 - c. Mental illness;
 - d. HIV infection;
 - e. Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person’s blood or other potentially infectious material; or
 - f. Other injuries or illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the report.

VIII. DEPARTMENT OF LABOR REFERRAL

- A. Any employee or Union Representative who believes that a serious violation of the Workplace Violence Prevention Program exists, or that an imminent danger exists, shall bring such matter to the attention of their immediate supervisor in the form of a written notice and shall afford the Superintendent, Regional Director, or Central Office and Satellite Location Liaison a reasonable opportunity to correct such activity, policy, or practice. Written notice to an employer shall not be required where imminent danger or a threat exists to the safety of a specific employee or employees, and the reporting employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

- B. If, after following a referral of such matter to the employee's supervisor's attention, and after a reasonable opportunity to correct such activity, policy, or practice, the matter has not been resolved and the employee or Union Representative still believes that a serious violation of the Workplace Violence Prevention Program remains, or that an imminent danger exists, such employee or Union Representative may request an inspection by giving notice to the Commissioner of the Department of Labor, or designee, of such violation or danger.

Such notice and request shall be in writing, shall set forth with reasonable particularity the grounds for the notice, shall be signed by such employee or Union Representative, and a copy shall be provided by the Commissioner of Labor, or designee, to the employer or the person in charge no later than the time of inspection, except that on the request of the person giving such notice, such person's name and the names of individual employees or Union Representative shall be withheld. Such inspection shall be made forthwith.

- C. The Superintendent, Regional Director, or designee, and Union Representative shall be given the opportunity to accompany the Commissioner of Labor, or designee, during an inspection for the purpose of aiding such inspection. Where there is no Union Representative, the Commissioner of Labor, or designee, shall consult with a reasonable number of employees concerning matters of safety in the workplace.
- D. The authority of the Commissioner of Labor, or designee, to inspect premises pursuant to such an employee complaint shall not be limited to the alleged violation contained in such complaint. The Commissioner of Labor, or designee, may inspect any other area of the premises in which he or she has reason to believe that a serious violation of this directive exists.
- E. No employer shall take retaliatory action against any employee or Union Representative because they do any of the following:
1. Make an application pursuant to Section VIII-A above;
 2. Request an inspection as authorized in Section VIII-B above; or
 3. Accompany the Commissioner of Labor, or designee, as authorized in Section VIII-C above.
- F. The Commissioner of Labor, or designee, may, upon his or her own initiative, conduct an inspection of any premises occupied by an employer if he or she has reason to believe that a violation of this section has occurred or if he or she has a general administrative plan for the enforcement of this section, including a general schedule of inspections, which provides a rational administrative basis for such inspections.

_____ **CORRECTIONAL FACILITY**

Workplace Violence Prevention Program Committee Meeting Minutes

(Reporting period: At least annually, or as deemed necessary by the committee)

Date of Meeting: _____

For each set of data if workplace violence incidents are reported, list the incident and date and review to determine if appropriate action was taken at the time. If the committee does not reach a consensus, the incident and related background information should be forwarded to the Statewide Workplace Violence Prevention Program Committee (SWPPC). Please indicate if no workplace violence incidents were reported.

I. REVIEW OF WORKPLACE VIOLENCE INCIDENT LOG (Dir. #4960, section IV-A-2-e):

- 1.
- 2.
- 3.
- 4.

II. REVIEW OF SH-900 AND SH-900.1 LOGS:

- 1.
- 2.
- 3.
- 4.

III. FORM #2098, "MONTHLY SAFETY, ENVIRONMENTAL SERVICES AND WORKPLACE VIOLENCE INSPECTION REPORT – (Workplace Violence Factors Column) REVIEW:

- 1.
- 2.
- 3.
- 4.

IV. REVIEW OF LOCAL LABOR MANAGEMENT MEETING MINUTES:

- 1.
- 2.
- 3.
- 4.

V. REVIEW OF UNUSUAL INCIDENT REPORTS (Force Print 15th of each month):

- 1.
- 2.
- 3.
- 4.

- VI. REVIEW OF INMATE DISCIPLINARY SYSTEM (FIDS Force print 15th of each month):**
- 1.
 - 2.
 - 3.
 - 4.
- VII. MISCELLANEOUS (Any other reported information brought by the DSS or committee members, including Union Representatives related to workplace violence, e.g. Memorandums, verbal reports, Population Management information, etc.):**
- VIII. ANNUAL PROGRAM REVIEW/RISK EVALUATION (List risk factors (if any) that are identified as a result of the annual review/risk evaluation. Additionally list any corrective actions taken as a result of data/program review. If consensus cannot be reached, refer to SWVPC and document referral in section IX of this minutes form):**
- IX. STATEWIDE WVPC REFERRAL (Use this section to list workplace violence incidents or related issues for statewide committee referral, briefly list all relevant information and reports as related to the incident and submit to the Assistant Commissioner):**

Community Supervision
Risk Evaluation

Form 4960B (9/12)

Photocopy locally as needed

Risk Evaluation	
This risk evaluation is designed to be utilized for Community Supervision work locations . Not all questions will pertain but please complete the following questions to the best of your ability.	
1. Demographic Information	
Site Location:	
Name of Person(s) Completing Assessment:	
2. Crime Rate in the immediate area: <input type="checkbox"/> High <input type="checkbox"/> Medium <input type="checkbox"/> Low	
3. Building is: <input type="checkbox"/> State Owned <input type="checkbox"/> Leased <input type="checkbox"/> Other (Please Specify):	
4. Building Occupancy: (choose all that apply) <input type="checkbox"/> Single Tenant <input type="checkbox"/> Single Story <input type="checkbox"/> Three Floors <input type="checkbox"/> Multi-Tenants <input type="checkbox"/> Two Floors <input type="checkbox"/> Four or more Floors	
5. Is parking area access restricted? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (Please Specify):	
6. Are parolees seen at this site? <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. What are the hours of staff access? <input type="checkbox"/> Day <input type="checkbox"/> 12 Hour Operation <input type="checkbox"/> 24 Hour Operation	
8. Is there a procedure for detecting weapons used at this location? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, Please explain procedures used and any devices used:	
9. Number of Employees? (for this location) <input type="checkbox"/> Less than 20 <input type="checkbox"/> 20-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> More than 100 <input type="checkbox"/> Other (Please Specify):	
PHYSICAL EVALUATION OF BUILDINGS AND GROUNDS	
1. Is access to the Community Supervision office restricted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Does the building have adequate outside lighting to enhance night security? <input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Do parking areas have adequate outside lighting to enhance night security? <input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Are accessible windows secured? <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Does the building have signs posted on all entries stating no weapons and subject to search? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Reception Area	
6. Is there a security alarm system? <input type="checkbox"/> Yes <input type="checkbox"/> No	
INTERVIEW AREA	
1. Is this area close to reception? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Community Supervision
Risk Evaluation

Form 4960B (9/12)

Photocopy locally as needed

2. Are parolees escorted to the interview areas? <input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Do walls provide conversation privacy? <input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Are offices arranged so alternate escape route is unobstructed? <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Is the desk clear of objects that could be used as a weapon? <input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Is the exit unobstructed? <input type="checkbox"/> Yes <input type="checkbox"/> No	

DETENTION AREA – If this location does not have a detention area, skip this section.

1. Is it close to the interview area? <input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is area as bare as possible? <input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Is area clearly visible? <input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the bench secured to the floor? <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Are there rings on the bench for hand cuffs and leg restraints? <input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Is there adequate space for more than one parolee? <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Is a parolee ever left unattended? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Is there an issue with physical evaluation not covered by the questions in this section?
 Yes
 No

SECURITY

1. Does your location have a security service? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, skip to question 6. 1a. If yes, is the security provided by the state or a private vendor? <input type="checkbox"/> State <input type="checkbox"/> Private vendor	
2. What service does the security service provide? <input type="checkbox"/> Fixed Post <input type="checkbox"/> Roving Patrol within building <input type="checkbox"/> Roving Patrol building exterior/parking lots <input type="checkbox"/> All of the Above Other (Please Specify):	
3. Does security wear uniforms? <input type="checkbox"/> Yes <input type="checkbox"/> No	
4. What hours is security provided? <input type="checkbox"/> Day <input type="checkbox"/> Weekend <input type="checkbox"/> Evening <input type="checkbox"/> Overnight	
5. Is the security desk location highly visible to persons entering the building? <input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Are visitors required to register at the site entrance and wear identification? <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Is there written procedures for visitors that is clearly posted? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Community Supervision
Risk Evaluation

Form 4960B (9/12)

Photocopy locally as needed

8. Are visitors required to be escorted by staff? <input type="checkbox"/> Yes <input type="checkbox"/> No
9. If there is an escort procedure, is it uniformly enforced? <input type="checkbox"/> Yes <input type="checkbox"/> No
10. Are visitors announced? <input type="checkbox"/> Yes <input type="checkbox"/> No
11. Is visitor identification required to be turned in at end of visit? <input type="checkbox"/> Yes <input type="checkbox"/> No
12. Is there a procedure in place to account for visitor/vendor ID's? <input type="checkbox"/> Yes <input type="checkbox"/> No
13. Is there a procedure to ensure the building is empty at night? <input type="checkbox"/> Yes <input type="checkbox"/> No
14. Are employees required to wear State ID at all times while on grounds? <input type="checkbox"/> Yes <input type="checkbox"/> No
15. Is there an accountability system in place for State ID's if lost, stolen or upon termination? <input type="checkbox"/> Yes <input type="checkbox"/> No
16. Are there personnel available to escort staff to the parking lot if requested? <input type="checkbox"/> Yes <input type="checkbox"/> No
17. Any other issues involving security not covered in this section? <input type="checkbox"/> Yes <input type="checkbox"/> No
MAILROOM LOCATIONS
1. Does this site have exterior access for mail delivery? <input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the area monitored or restricted? <input type="checkbox"/> Yes <input type="checkbox"/> No
3. Are there procedures in effect to address mail tampering/terrorism at this location? <input type="checkbox"/> Yes <input type="checkbox"/> No
SURVEILLANCE
1. Does this site use a type of intrusion detection system? <input type="checkbox"/> Yes <input type="checkbox"/> No
2. What areas are covered by the intrusion detection system? (Check all that apply) <input type="checkbox"/> Doors <input type="checkbox"/> Windows <input type="checkbox"/> Roof <input type="checkbox"/> Garage/Parking <input type="checkbox"/> Loading Dock
3. Does this site have any type of panic alarm/emergency response system? <input type="checkbox"/> Yes <input type="checkbox"/> No
4. Does the building have a functioning public address system? <input type="checkbox"/> Yes <input type="checkbox"/> No
5. Is there an issue with surveillance which is not addressed by the questions in this section? <input type="checkbox"/> Yes <input type="checkbox"/> No
RECEPTION AREAS/PUBLIC AREA

Community Supervision
Risk Evaluation

Form 4960B (9/12)

Photocopy locally as needed

1. Does this location have a formal staffed reception area? <input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is there minimal reception room furniture? <input type="checkbox"/> Yes <input type="checkbox"/> No
3. Is the furniture bolted? <input type="checkbox"/> Yes <input type="checkbox"/> No
4. Are there objects in public areas which could be readily available to be used as a weapon? <input type="checkbox"/> Yes <input type="checkbox"/> No
5. If staff temporarily absent is there an alternate staff member posted during that period? <input type="checkbox"/> Yes <input type="checkbox"/> No
6. Is the area secured to prevent public access to office areas? <input type="checkbox"/> Yes <input type="checkbox"/> No
7. Does reception staff have visual access to visitors arriving? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Does the reception area have an alternate egress? <input type="checkbox"/> Yes <input type="checkbox"/> No
9. Does reception staff have a phone or other communication device? <input type="checkbox"/> Yes <input type="checkbox"/> No
10. Can the reception area be observed by co-workers? <input type="checkbox"/> Yes <input type="checkbox"/> No
11. Is there a procedure in place for reception staff to follow in the event of an incident? <input type="checkbox"/> Yes <input type="checkbox"/> No
12. Is reception area under surveillance monitoring? <input type="checkbox"/> Yes <input type="checkbox"/> No
13. Are visitor procedures clearly posted in reception area? <input type="checkbox"/> Yes <input type="checkbox"/> No
14. Does reception staff maintain sign in/accountability records? <input type="checkbox"/> Yes <input type="checkbox"/> No
15. Is there an issue with the reception area which is not covered by the questions in this section? <input type="checkbox"/> Yes <input type="checkbox"/> No
FIELD VISITS BY STAFF
1. Do staff members provide their office with a travel itinerary when working in the field? <input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is field staff required to contact the office at the end of the day? <input type="checkbox"/> Yes <input type="checkbox"/> No
3. Does staff have two-way communication while in the field? <input type="checkbox"/> Yes <input type="checkbox"/> No
4. Is staff provided or given access to background information on the location to which they are visiting? <input type="checkbox"/> Yes <input type="checkbox"/> No
5. Is staff aware of information on domestic violence issues/history pertaining to the parolees they are visiting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Community Supervision
Risk Evaluation

Form 4960B (9/12)

Photocopy locally as needed

6. Does staff carry identification when working in the field? <input type="checkbox"/> Yes <input type="checkbox"/> No
7. Is staff able to request a second person to assist during a specific field visit? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Is field staff instructed to report if there are pets (dogs, snakes, etc.) at the field visit location? <input type="checkbox"/> Yes <input type="checkbox"/> No
9. Is field staff offered support in the event of an incident in the field? <input type="checkbox"/> Yes <input type="checkbox"/> No
10. Is field staff trained to be aware of potential weapons at the site of their field visit? <input type="checkbox"/> Yes <input type="checkbox"/> No
11. Is there an issue with field visits which is not addressed by the questions in this section? <input type="checkbox"/> Yes <input type="checkbox"/> No

Workplace Violence Prevention Risk Evaluation Results Community Supervision

Form 4960C (9/12)

Photocopy locally as needed

1. Building: _____

2. Members of the Committee that completed this evaluation:

(members should initial the report, signifying their approval)

3. Date(s) of evaluation: _____

4. Report date: _____

5. Indicate all data reviewed by the Committee:

a) Relevant policies _____

b) Injury /incident data

Unusual Incident Reports _____

SH-900 Log _____

Other data _____

c) Physical plant evaluations _____

d) Other (list) _____

6. Summarize key findings (use attachment, as necessary):

Workplace Violence Prevention Risk Evaluation Results Community Supervision

Form 4960C (9/12)

Photocopy locally as needed

7. List recommendations by following categories (use attachment, as necessary):

(Consider cost and other feasibility, significance of the risk factor that it addresses, etc.
For items for which there is no consensus, include the dissenting opinion(s))

a) Immediate:

b) Intermediate (can't be done immediately, but can be scheduled):

c) Long Term (requires research, budget appropriations, or approvals):

8. Plan to address the immediate concerns:

NOTE: Keep a copy of all workplace violence risk evaluation and determination reports and related documentation on file locally and send a copy of the summary report to the Regional Director and the Deputy Commissioner for Community Supervision.

**STATE OF NEW YORK – DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
WORKPLACE VIOLENCE INCIDENT REPORT**

Each employee who believes that he or she is the victim of Workplace Violence is to submit a written report to his or her immediate supervisor, or to the Superintendent or Union Representative. It remains the responsibility of all employees to report all threatening behavior, whether from an inmate, the general public, or an employee, to supervisory staff immediately so appropriate action can take place. The supervisor must take appropriate action, if necessary, and then forward the report to the appropriate area to ensure it is documented in the Workplace Violence Incident Logbook.

Name/Author: _____ Date: _____

A. Workplace Location Where Incident Occurred: _____

B. Time of Day/Shift When Incident Occurred: _____

C. Detail Description of the Incident (include events leading up to the incident and how the incident ended):

D. Name and Job Titles of Involved Employees:

E. Name of Other Identifier of Other Individual(s) Involved:

F. Nature and Extent of Injuries Arising from the Incident:

G. Names of Witnesses:



Corrections and Community Supervision

ANDREW M. CUOMO
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

TO: All Superintendents
Division Heads
Regional Directors

FROM: Anthony J. Annucci, Acting Commissioner

SUBJ: Workplace Violence Prevention Program – Revised Policy Statement

DATE: March 2, 2016

POST ON EMPLOYEE BULLETIN BOARDS

In accordance with New York State Labor Law, Section 27-b and 12NYCRR Part 800.56, the Department has developed and implemented a program to identify and prevent workplace violence. A major part of the Department's core mission is to provide safe and secure correctional facilities, offices and satellite work locations. The Department's prevention program is specifically outlined in Directive #4960, "Workplace Violence Prevention Program." As outlined in Directive #4960, Departmental policies, directives, reporting systems, and employee training provide an established framework that supports a strong and responsive "Workplace Violence Prevention Program." Accordingly, the Department of Corrections and Community Supervision does not tolerate workplace violence.

Workplace Violence is defined as any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment including, but not limited to:

- An attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
- Any intentional display of force which would give an employee reason to fear or expect bodily harm;
- Intentional and wrongful physical contact with a person without his or her consent that entails some injury;
- Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

At least annually, or as deemed necessary, employee representatives will be involved in the evaluation of the physical environment, development of the Workplace Violence Prevention Program and the review of the workplace violence incident reports to identify trends in the types of incidents reported, if any, and the review of the effectiveness of any mitigating actions taken.

It is the responsibility of all employees to report incidents of workplace violence, whether from an inmate, the general public, or another employee, to management as soon as practicable by using established Departmental reporting protocols (e.g. Inmate Misbehavior Report, Employee Accident/Injury Report, etc.) or via form #4960D, or a memorandum to their supervisor, or workplace administrator (Superintendent, Regional Director, Bureau Chief, Division Head). The report must provide all necessary details (date, time, location, description of incident, injuries, witnesses, etc.) regarding the incident, including the names (or descriptions) of those involved.

A copy of this memorandum is to be posted on employee bulletin boards.

HEALTH INSURANCE STEWARD TRAINING 2017

General Information:

1. NYSHIP – New York State Health Insurance Program
The program members are covered under in New York State for health insurance, consisting of the Empire Plan (the State plan) and 8 HMOs. Members have a choice of plan coverage.
2. Empire Plan Breakdown
Consists of Empire Blue Cross/Blue Shield for hospital benefits; United HealthCare for doctors, labs, etc.; Beacon Health for the Mental Health and Substance Abuse Program; and CVS/Caremark for Prescription Drug coverage.
3. Members covered under an HMO receive both medical and prescription drug coverage through that HMO. HMO coverage is NOT negotiated with the State of New York.
4. Once NYSCOPBA members retire, they are no longer a member of the Security Services Bargaining Unit. For retiree health insurance issues, retirees should call the Employee Benefits Division of Civil Service for assistance (1-800-833-4344 or 518-457-5754) (www.cs.ny.gov).
5. Dependent Coverage – children are covered through the end of the month of their 26 birthday for health insurance coverage. Coverage for dental and vision benefits are provided until the dependents' 19th birthday (day of their birthday). Dependents between age 19 and 25 who are full-time students continue dental and vision coverage as long as they remain full-time students. Members must provide a Student Verification Form to Emblem Health (formerly GHI) and Davis Vision before claims will be paid. This proof must be provided EACH semester. These forms can be obtained through the provider or NYSCOPBA's website.

Empire Plan Specific:

1. Members covered through the Empire Plan can apply for a Waiver of Premium if placed on Leave Without Pay (see attached copy for details). Copies of this form can also be obtained at the facility Personnel Office and NYSCOPBA's website. This waiver does NOT apply to members covered under an HMO.
2. The Empire Plan provides Centers of Excellence Programs for Cancer, Infertility and Transplants. Coverage through these programs is a paid-in-full benefit and includes a travel, lodging and meal allowance if travel is more than 100 miles one way from a member's home and within the United States. Members must call for approval prior to services. They must call United HealthCare for the Cancer and Infertility Programs and Blue Cross/Blue Shield for the Transplant Program.

Dental and Vision Benefits

1. Dental coverage is through Emblem Health (previously GHI). Vision coverage is through Davis Vision. Coverage is for all members, including those covered under an HMO.

Dental and Vision coverage is provided by the State of New York at no cost to the member. These benefits are NOT union benefits. Eligibility issues for either of these programs must be addressed with the Health Benefits Administrator (HBA) at the member's facility Personnel Office. NYSCOPBA has no access to eligibility.
3. Emblem Health's dental plan provides benefits for most types of dental services. Members are covered under the "Preferred" Plan, which includes coverage under both participating providers and non-participating providers. For benefit information and/or a list of participating providers, members can either call Emblem Health directly (1-800-947-0101) or log onto Civil Service's website (www.cs.ny.gov – Other Benefits).
4. Davis Vision's plan provides coverage for glasses or contacts once every two years for adults (age 19 and over) (dependents age 19 through 25 must be full time students) and once every year for dependents under age 19. For a list of participating providers and/or benefit information, members can call Davis Vision at 1-888-588-4823 or log onto Civil Service's website (www.cs.ny.gov – Other Benefits).
5. Davis Vision also administers the Lasik Vision benefit. Members (not dependents) are covered for lasik benefits with a \$200 copay. Dependents are eligible for "up to a 25% discount" for lasik surgery when done through Davis Vision's Lasik Vision Network. For a list of participating providers for this benefit, contact Davis Vision at 1-888-588-4823.
6. Civil Service's website (www.cs.ny.gov) is the best resource for members to obtain benefit information, provider listings, etc. All coverage information is included on this website. Members should not log onto any carrier's website directly as they have various books of business and the site the members reach may not be the site for Empire Plan-specific coverage.

**IMPORTANT HEALTH INSURANCE
TELEPHONE NUMBERS**

Empire Plan - 1-877-769-7447 (1-877-7NYSHIP)

Option 1 – Medical (presently United HealthCare)

Medical Claim Issues

Managed Physical Medicine Program/MPN (chiropractic and physical therapy)

Benefits Management Program for Prospective Procedure Review of MRI, MRA, CT, PET scans and Nuclear Medicine tests

Home Care Advocacy Program (HCAP) for paid-in-full home care, enteral formulas, diabetic shoes and/or durable medical equipment/supplies

Centers of Excellence for Infertility Services Program

Centers of Excellence for Cancer Program

Option 2 – Hospital (presently Blue Cross/Blue Shield)

Hospital Benefits & Claims

Certification of Inpatient Hospital and Skilled Nursing Facility Admissions

Centers of Excellence for Transplant Program

Option 3 – Mental Health & Substance Abuse Program (presently Beacon Health)

Mental Health and Substance Abuse Benefits and Claims

Authorization of Such Services and Referral to Network Providers

Option 4 – Prescription Drug (presently CVS/Caremark)

Prescription Drug Benefits, Including Prior Authorization of Certain Drugs

Mail Service Pharmacy

Option 5 – NurseLine

Health Information and Support

Option 6 – Repeat Options

Emblem Health (Dental Program) 1-800-947-0101

Davis Vision (Vision Program and Lasik Vision Program) 1-888-588-4823

**Civil Service Employee Benefits Division 1-800-833-4344
518-457-5754 (Albany Area)**

NYSCOPBA Member Services Department

Stephanie Flanagan sflanagan@nyscopba.org or Ext. 261
Rosalind Defreest rdefreest@nyscopba.org or Ext. 256

Introduction

The Membership Services Department provides many services for our Officials and Members including electronic equipment, payroll deductions, member database, web site, communications, information technology and more. Below is a summary of some of the services we offer.

Web Site

The NYSCOPBA web site is a valuable tool for Stewards and members to keep up to date and get the information they need. A new website interface was launched in April 2016. Each member will need a unique username and password to access the Members Only portions of the website. There is a link below the login box on the website (www.nyscopba.org) Create your account here. This link will allow the member to create their account.

The information on the website has been broken down on the Index Page for ease of finding information quickly.

We offer many online forms, which make it easier to send us information and to be sure the information you send is delivered to the correct department.

CD ROM Library

We produce a custom CD Rom Library to give members easy access to the most up to date information available when not connected to the internet. The CD includes forms, DOCCS Directives, grievance information and more. If you would like a copy of the CD, it can be ordered on our web site from the Promotional Products page.

Communication

We are responsible for mass communications with our members. We handle mailings, web site, mass email and texting. If you would like to sign up for email or texting updates, please visit our web site visit the benefits page and choose Update Contact Info.

Computer Hardware

Member Services takes care of ordering and maintaining all electronic equipment for the sectors. If your Sector is in need of new equipment or equipment repair, please contact us at membershipservices@nyscopba.org.

Discounts

Our web site has a Discounts page where our members can access special offers on a variety of goods and services.

Membership Database

We maintain a database of Member information that we use to improve communication, process payroll deductions and solve member issues. All members are encouraged to keep their information up to date with Facility Personnel and Payroll Offices as this is how we obtain the most accurate information.

Member Spotlight

The Spotlight page on the web site is where we post information about our members when they go above and beyond the call of duty.

News from the Field

We have a News from the Field section on our web site where we post information about incidents in the field. In this section you can stay informed and read about the statewide incidents and also submit information for posting.

Publications

Membership Services designs many of the publications distributed by NYSCOPBA including The Independent Newsletter, ads, flyers, survivors benefit guide and the calendar book. If you have information or photos to include in the newsletter or other publication, please send it in. As always, if you have suggestions on how to make our publications better, please contact us.

Stewards Page

We have a Stewards page on the web site where we post the most needed information for our Stewards in the field. There is a section dedicated to Sector Treasury as well

Optional Insurance and Other Payroll Deductions

Type	Carrier	Contact info
Life Insurance	The Standard	Norvest Financial Services, Inc. 930 Albany Shaker Road, Albany, NY 12110 (888) 869-8252 - http://www.norvest.net/
Disability Insurance	The Standard	Norvest Financial Services, Inc. 930 Albany Shaker Road, Albany, NY 12110 (888) 869-8252 - http://www.norvest.net/
Accidental Death and Dismemberment	The Standard	Norvest Financial Services, Inc. 930 Albany Shaker Road, Albany, NY 12110 (888) 869-8252 - http://www.norvest.net/
Critical Illness	The Chartis	Norvest Financial Services, Inc. 930 Albany Shaker Road, Albany, NY 12110 (888) 869-8252 - http://www.norvest.net/
Indemnity Insurance	AFLAC	22 Corporate Woods Blvd., Albany, NY 12211 (800) 366-3436 - Stash Wojeski (518) 477-9538 stashwojeski@us.aflac.com - http://www.aflacny.com/
Auto and Home	Met Life	MetLife Choice Program 1-877-491-5087
Auto and Home	Liberty Mutual	135 Corporate Woods, Suite 380 Rochester, NY 14623 (800) 526-1547 mark.enright@libertymutual.com
Legal Services (Southern Region Only)	Koehler & Isaacs, LLP	61 Broadway, 25th Floor, New York, NY 10006 (917) 551-1300 (212) 551- 0030(fax) sisacs@koehler-isaacs.com
Foundation	Correctional Peace Officers Foundation	1346 North Market Blvd., PO Box 348390 Sacramento, CA 95834 (916) 928-0061 - (800) 800-2763 - (916) 928-0072 (fax) Vicki Wahlquist vicki@cpof.org - http://www.cpod.org/
Trust Fund	Correctional Services Trust Fund	2 Crimson Way, Plattsburgh, NY 12901 (518) 561-2937 - (800) 269-3723 - (518) 561- 7459 (fax) http://www.cstbf.com/ - CSTBF@Yahoo.com Contact: Bill LaCount



**NYSCOPBA
POLICY & PROCEDURES
MANUAL**



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



To: NYSCOPBA Chief Sector Stewards

From: Chris Summers, Recording Secretary

Date: January 10, 2018

Re: NYSCOPBA Policy and Procedures Manual

In keeping with the June 26, 2003 Motion, passed by the Executive Assembly, to create and maintain a Policy and Procedures Manual, below is an index of materials contained herein.

The manual should be updated at the Sector level whenever changes are made.

This information is available on NYSCOPBA's website as well.

- Certificate of Incorporation
- Constitution & By-Laws
- Confidentiality Policy
- Whistleblower Policy
- Conflict of Interest Policy
- Judicial & Ethics Policy
- Rainy Day Fund Policy
- Legal Defense Fund Policy
- Policy for Recovering Funds and Property
- Political Action Contributions Policy and Procedure
- Employment Policy
- Policy for Non-Cooperation in NOD Defense Representation
- Retiree Chapter Policy
- Sector Reporting Policy
- Sector Funds Reimbursement Procedures and Forms
- Veterans Committee Policy – Veterans Motions
- Dependent Scholarship Policy
- Media Guidelines
- Miscellaneous Standing Policies adopted by the Executive Assembly

MOTION SHEET

I move we create a policy that reflects the Executive Assembly is the governing board who sets all policies, aims and goals of this Organization by which the Executive Board is mandated to follow.

Motion Made by: Randy McAdam

Motion Seconded by: Frank McKinney

Motion **Passed**/Defeated: Unanimous

Date: September 23, 2003

MOTION SHEET

NYSCOPBA Standard Operating Policy and Procedure Manual shall be developed and maintained by the Executive Board, with the approval of the Executive Assembly, to help assist in the conduct of daily affairs of the Association. The Executive Board shall be responsible for the implementation of all policy and procedure decisions of the Executive Assembly.

Motion Made by:

Simun Matesic
Robet Centore

Motion **Passed**/Defeated:

Unanimous

Date: 6/26/2003

MOTION SHEET

Motion:

That a tentative policy, of any and all policies made by the EA to be sent to the Membership services to be programmed onto the disc that membership services distributes.

Motion Made by:

Paul Mikolajczyk
Sing Sing

Motion Seconded by:

Frank McKinney
Lyon Mountain

Motion **Passed**/ Defeated: Unanimous

Date:

September 6, 2001

NYSCOPBA
PHONE EXTENSION LIST

Allen, Michelle (Administrative Asst.)	225
Babineau, Sonya (Accounting)	241
Brunelle, Ricky (Northern Region Business Agent)	243
Carpenter, Scott (Central Region VP)	315-736-5479
Christian, Al (Law Enforcement Support Staff)	244
Conference Room #1 (Main-Rear)	264
Conference Room #2 (Front)	265
Conference Room (Main-Rear/ AV System)	267
Cronin, Bob (Grievance Director)	259
DeFreest, Rosalind (Membership Services)	256
Fisher, Clarence (Southern Region VP)	914-375-7527
Flanagan, Stephanie (Membership Services)	261
Gleason, Jocelyn (Health/ Safety; Workers Comp)	247
Gulino, Mary (Office Manager)	227
Harmon, John (Law Enforcement VP)	316
Hebert, Kim (Administrative Asst./ Scholarships)	229/234
Hogan, Toby (Treasurer)	240
Lobby at Front Desk	263
Lunchroom (Downstairs)	254
Lunchroom (Upstairs)	232
Marro, Mike (Grievance Dept., Staffing)	253
Mazzella, Mike (Mid Hudson VP)	845-563-8700
Miano, Joe (Western Region Vice President)	585-382-3120
Miller, Jim (Public Relations)	230
Naylor, Bill (Retirement/ Retirement Disability)	257
NYSCOPBA Headquarters Fax	518-426-1635
Pascuzzi, Nicole (Administrative Asst.)	249
Powers, Michael (President)	302
Roberts, John (Northern Region VP)	243
Sawchuk, Tammy (Executive Vice President)	304
Sawyer, Tom (Law Enforcement Business Agent)	244
Sellers, Bill (Sergeant Liaison)	266
Smith, Sharon (Health Benefits)	236
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Valente, Daniel (Legislative Director)	306
Veterans Committee	303/518-441-2036
Viddivo, Dave (Special Asst. to the President)	237

SATELLITE OFFICES

Central Region	Paul Lashway Ray Rivera	315-736-5479 Fax 315-736-5541
Mid-Hudson	Mike Mazzella Larry Flanagan	845-563-8700 Fax 845-563-9077
Southern Region	Clarence Fisher Courtney Nixon	914-375-7527 Fax 914-375-7529
Western Region	Joe Miano Al Mothershed, Dave Tessmer	585-382-3120 Fax 585-382-9275

CERTIFICATE OF INCORPORATION

of

**NEW YORK STATE CORRECTIONAL OFFICERS AND POLICE BENEVOLENT
ASSOCIATION, INC.**

Under Section 402 of the Not-For-Profit Corporation Law

The undersigned, for the purpose of forming a corporation under Section 402 of the Not-For-Profit Corporation Law of the State of New York, does hereby certify:

1. The name of the Corporation is NEW YORK STATE CORRECTIONAL OFFICERS AND POLICE BENEVOLENT ASSOCIATION, INC. (the Corporation").

2. The purposes for which the Corporation is formed and the powers which may be exercised by the Corporation, in addition to the general powers set forth in Section 202 of the Not-For-Profit Corporation Law of the State of New York are:

- (a) to protect and promote the interests of its members in connection with their employment;
- (b) to better the conditions of employment of its members, improve their services and develop a higher degree of efficiency in their respective occupations; and
- (c) to do any and all acts or things necessary, suitable, appropriate, proper or incidental in connection with any of the foregoing purposes, or in advancement thereof, which may be done by a corporation organized for such purposes under the laws of the State of New York, and to exercise any and all powers which may now or hereafter be lawful for the Corporation to do or exercise under or pursuant to the laws of the State of New York for

the purposes of accomplishing any of the other purposes of the Corporation as set forth herein, which do not require the prior consent of any governmental organization, unless such consent is obtained.

3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law, and it is a Type A Corporation.

4. No part of the net earnings of the Corporation shall inure to the benefit of any of its members.

5. The principal office of the Corporation is to be located in the City of Albany, County of Albany and State of New York.

6. The names and residence addresses of the initial directors of the

Corporation are:

Name	Address
Brian Shanagher	79 Academy Avenue Cornwell-on-Hudson New York 12520
William West	122 CE Penny Drive Wallkill, New York 12589
Robert Cronin	44 King Avenue Hudson Falls, New York 12839
Patrick Vaccarro	281 Parkdale Avenue Buffalo, New York 14213

7. The Secretary of State of the State of New York is hereby designated as the agent of the Corporation upon whom process may be served, and the post office address to

which the Secretary of State shall mail a copy of any such process served upon him is New York State Correctional Officers and Police Benevolent Association, Inc., 121 State Street, Albany, New York 12207.

8. The subscriber hereof is over the age of 18 years, is a citizen of the United States and is a resident of the State of New York.

9. The Corporation shall have perpetual duration.

IN WITNESS WHEREOF, this Certificate of Incorporation has been signed by
its subscriber on this 17th day of February, 1998.

Brian Shanagher

Brian Shanagher

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

On this 17th day of February, 1998 before me personally came Brian Shanagher,
to me known and known to me to be the individual described in and who executed the foregoing
instrument, and he executed the same.

William P Golderman

Notary Public

WILLIAM P GOLDERMAN
Notary Public, State of New York
Qualified In Albany Co
Commission Expires: 06/27/98

0071829.01

State of New York)
Department of State) SS:

I hereby certify that the annexed copy has been compared with the original document filed by the Department of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

March 18, 2005



A handwritten signature in black ink, appearing to read "R. M. S.", is written over the printed title.

Secretary of State

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on August 7, 2015.



Anthony Giardina

Anthony Giardina
Executive Deputy Secretary of State

150612000

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Received

MAR 12 2015

**CERTIFICATE OF AMENDMENT OF THE
CERTIFICATE OF INCORPORATION OF NEW
YORK STATE CORRECTIONAL OFFICERS
AND POLICE BENEVOLENT ASSOCIATION,
INC.**

Industrial Board of Appeals

Under Section 803 of the Not-for-Profit Corporation Law

1. The name of the Corporation is New York State Correctional Officers and Police Benevolent Association, Inc. This name has never been changed.

2. The date of filing of the certification of incorporation in the office of the Secretary of State of New York is March 2, 1998 and the certificate of incorporation was filed under Section 402 of the Not-for-Profit Corporation Law.

3. A certificate of amendment of the certificate of incorporation, adding Article 10 of the Certificate of Incorporation was filed in the office of the Secretary of State of New York on March 18, 2005.

4. The Corporation is a corporation as defined in Section 102(a)(5) of the Not-for-Profit Corporation Law. The Corporation is a non-charitable corporation under Section 201 of the Not-for-Profit Corporation Law (previously referred to as a Type "A" corporation), the corporate purposes are not changed hereby.

5. The provision of Article 10(b) of the Certificate of Incorporation, which was added pursuant to the Certificate of Amendment filed on March 18, 2005, is hereby amended to read as follows:

(b) The Executive Assembly shall approve all contracts, purchases or expenditures having an aggregate value of One Hundred Twenty Thousand (\$120,000) or more...

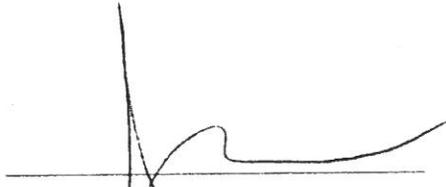
6. The undersigned have been authorized to execute and file this Certificate of Amendment by the concurring vote of a majority and quorum of the Executive Assembly, comprised of the representatives of the members and exercising all of the rights, powers and privileges of members pursuant to Section 603(d) of the Not-for-Profit Corporation Law, at a regular meeting thereof held upon due notice pursuant to Section 605 of the Not-for-Profit Corporation Law, as more fully appears by the affidavit of the undersigned hereto annexed.

7. The Secretary of State is designated as the agent of the Corporation upon whom process against it may be served and the post office address to which the Secretary of State shall mail a copy of any process against it served upon the Secretary of State is, New York State Correctional Officers and Police Benevolent Associations, Inc. 102 Hackett Boulevard, Albany, New York, 12209.

IN WITNESS WHEREOF, the undersigned have made, subscribed and acknowledged this Certificate this 10th day of March 2015.



Michael Powers
President

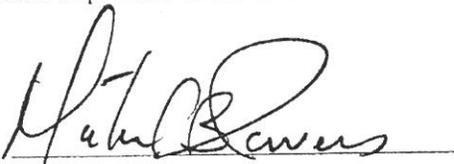


John Telisky
Treasurer

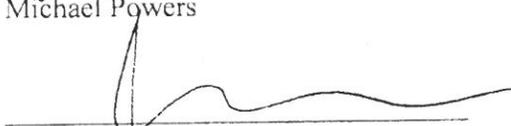
VERIFICATION

STATE OF NEW YORK)
) SS:
COUNTY OF ALBANY)

MICHAEL POWERS, and JOHN TELISKY, being duly sworn, depose and say, and each for himself deposes and says, that Michael Powers is President and John Telisky is Treasurer of New York State Correctional Officers Police Benevolent Association, Inc., the Corporation described in the foregoing Certificate, that a regular meeting of the Executive Assembly of the Corporation was held on the 25th day of February 2015, upon notice pursuant to Section 605 of the Not-for-Profit Corporation Law of the State of New York, that a quorum of the Executive Assembly was present in person at said meeting, and that at said meeting the deponents were authorized to execute and file the foregoing Certificate by the majority vote of the members of the Executive Assembly, which vote also constituted a quorum of the said Executive Assembly.

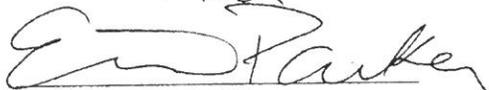


Michael Powers



John Telisky

Sworn to before me this
10 day of ~~February~~, 2015
March



Notary Public

4851-0450-0770, v. 1

ERIN N. PARKER
Notary Public, State of New York
No. 02WA6163368
Qualified in Albany County
Commission Expires March 28, 2017

CERTIFICATION

STATE OF NEW YORK)
) ss:
INDUSTRIAL BOARD OF APPEALS)

I, Devin A. Rice, an attorney licensed to practice in all the courts of the state of New York and Associate Counsel to the New York State Industrial Board of Appeals, do hereby certify that:

The attached is a true copy of a Resolution of Decision dated April 29, 2015, in the Matter of the Application of NEW YORK STATE CORRECTIONAL OFFICERS AND POLICE BENEVOLENT ASSOCIATION, INC., filed under IBA Docket Number CI 15-006 which I have compared with the original in this office and which I do hereby CERTIFY to be a true and correct transcript thereof.

IN WITNESS WHEREOF, I set my hand and the seal of the Industrial Board of Appeals, this 8th day of May 2015.



Devin A. Rice
Associate Counsel

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

-----X
In the Matter of the Application of: :
 :
NEW YORK STATE CORRECTIONAL OFFICERS :
AND POLICE BENEVOLENT ASSOCIATION, :
INC., :
 :
For Approval of an Amendment to a Corporate :
Instrument Pursuant to New York State Labor Law :
§ 104 and New York State Not-for-Profit Corporation :
Law § 404 (j). :
-----X

DOCKET NO. CI 15-006

RESOLUTION OF APPROVAL

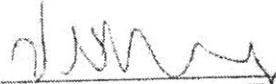
WHEREAS:

1. An application having been filed on March 12, 2015, for approval of an amendment to a previously approved Certificate of Incorporation in the above entitled matter; and
2. The Board having made such inquiry into the objectives and purposes of the amendment as it has deemed necessary and advisable; and
3. The Board, having given due consideration to all the papers filed herein, makes the following determinations pursuant to the provisions of Labor Law §104:
 - (a) the stated purposes of the proposed amendment are consistent with public policy and the Labor Law; and
 - (b) no further hearing herein is necessary.

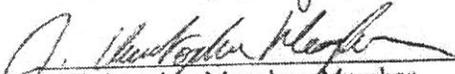
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The said Amendment to Certificate of Incorporation is approved; and
2. A certified copy of this Resolution be annexed thereto.

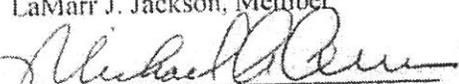
WITNESS, the signatures of the Members of the Industrial Board of Appeals and the Seal of the Industrial Board of Appeals of the State of New York, at Albany, New York, on the 29th day of April, 2015.



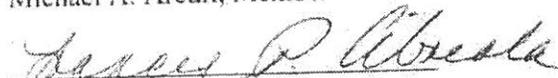
Vilda Vera Mayuga, Chairperson



J. Christopher Meagher, Member

LaMarr J. Jackson, Member


Michael A. Arcuri, Member



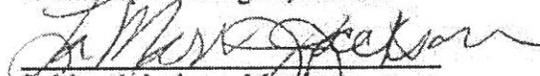
Frances P. Abriola, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Albany, New York on
April 29, 2015.

WITNESS, the signatures of the Members of the Industrial Board of Appeals and the Seal of the Industrial Board of Appeals of the State of New York, at Albany, New York, on the 29th day of April, 2015.

Vilda Vera Mayuga, Chairperson

J. Christopher Meagher, Member



LaMarr J. Jackson, Member

Michael A. Arcuri, Member

Frances P. Abriola, Member

Dated and signed by a Member
of the Industrial Board of Appeals
at Buffalo, New York on
April 29, 2015.

492

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF

New York State Correctional Officers and Police Benevolent Association, Inc.
(Name of Domestic Corporation)

Under Section 803 of the Not-for-Profit Corporation Law

Filer's Name Sheehan Greene Golderman & Jacques, LLP

Address 54 State Street, Suite 1001

City, State and Zip Code Albany, NY 12207

NOTE: **The certificate must be submitted with a \$30 filing fee.** This form was prepared by the New York State Department of State. It does not contain all optional provisions under the law. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores. The Department of State recommends that all documents be prepared under the guidance of an attorney. **Please be sure to review Section 804 and Section 404 of the Not-for-Profit Corporation Law to determine if any consents or approvals are required to be attached to this certificate of amendment.**

For Office Use Only

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED JUN 12 2015
TAXS _____
BY: [Signature]

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F050816000986

**CERTIFICATE OF AMENDMENT OF
THE CERTIFICATE OF INCORPORATION OF
NEW YORK STATE CORRECTIONAL OFFICERS
AND POLICE BENEVOLENT ASSOCIATION, INC.**

Under Section 803 of the Not-for-Profit Corporation Law

1 The name of the Corporation is New York State Correctional Officers and Police Benevolent Association, Inc This name has never been changed

2 The date of filing of the certificate of incorporation in the office of the Secretary of State of New York is March 2, 1998 and the certificate of incorporation was filed under Section 402 of the Not-for-Profit Corporation Law

3 The Corporation is a corporation as defined in Section 102(a)(5) of the Not-for-Profit Corporation Law The Corporation is a Type "A" corporation under Section 201 of the Not-for-Profit Corporation Law, the corporate purposes are not changed hereby

4. The provision added to the Certificate of Incorporation is intended to clarify certain internal procedures by adding Article 10 of the Certificate of Incorporation, the full text of which reads as follows

10 The Executive Board, as the board of directors of the corporation, shall manage the day-to-day affairs of the corporation subject, however, to the authority of the Executive Assembly, comprised of the elected representatives of the members chosen in accordance with the Bylaws, as follows:

(a) The Executive Assembly shall have final authority with respect to all budgetary matters, including the adoption of the corporation's budget

(b) The Executive Assembly shall approve all contracts, purchases or expenditures having an aggregate value of Twenty-Five Thousand (\$25,000) or more

(c) The Executive Assembly shall have final

/

authority with respect to the approval of professional agreements and the retention of professional advice and services

(d) The Executive Assembly shall have final authority with respect to the hiring and dismissal of all employees, consultants and staff

(e) The actions and proceedings of the Executive Assembly shall not be subject to annulment or supersession by the board of directors

5 The undersigned have been authorized to execute and file this Certificate of Amendment by the concurring vote of a majority and quorum of the Executive Assembly, comprised of the representatives of the members and exercising all of the rights, powers and privileges of members pursuant to Section 603(d) of the Not-for-Profit Corporation Law, at a regular meeting thereof held upon due notice pursuant to Section 605 of the Not-for-Profit Corporation Law, as more fully appears by the affidavit of the undersigned hereto annexed

6 The Secretary of State is designated as the agent of the Corporation upon whom process against it may be served and the post office address to which the Secretary of State shall mail a copy of any process against it served upon the Secretary of State is, New York State Correctional Officers and Police Benevolent Association, Inc , 102 Hackett Boulevard, Albany, New York, 12209

IN WITNESS WHEREOF, the undersigned have made, subscribed and acknowledged this Certificate this 26 day of Oct, 2004

2

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

Evelyn C Heady
Chairwoman

Mark S Perla
Gregory A. Monteleone
Walter J Sakowski, Jr



John G Binseel
Linda D Cleary
Counsel

EMPIRE STATE PLAZA
AGENCY BUILDING 2, 20TH FLOOR
ALBANY, NEW YORK 12223

Members

(518) 474-4785
FAX (518) 473-7533

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

-----X
In the Matter of the Application of :

NEW YORK STATE CORRECTIONAL OFFICERS
AND POLICE BENEVOLENT ASSOCIATION, INC., .

DOCKET NO CI-04-023

For Approval of an Amendment to the Certificate of
Incorporation Pursuant to Section 404 of the
New York State Not-for-Profit Corporation Law .

-----X
RESOLUTION OF APPROVAL

WHEREAS:

1. An application having been duly made for approval of said proposed Certificate of Amendment to the Certificate of Incorporation, pursuant to Not-For Profit Corporation Law Section 404, Labor Law Section 104 and Part 67 of the Board's Rules of Procedure and Practice (12 N Y C R.R. Part 67) on October 26, 2004. This application was based upon a vote taken by NYSCOPBA's Executive Assembly, on October 26, 2004; and
2. The Board was served with an Order to Show Cause (NY Supreme Court - County of Albany, Index Number 7282/04), signed November 22, 2004, concerning this application. The Board was not enjoined from taking any action by this Order, which is currently pending before the Court. The Board was also served with a Summons and Verified Complaint in the same action; and
3. The original Certification of Incorporation was considered and approved by the Industrial Board of Appeals on February 25, 1998, under docket number CI-3-98; and
4. An earlier application for approval of an Amendment to the Certificate of Incorporation was filed with the Board by this Applicant on October 21, 2004, under docket number CI-04-022; and

Visit our Website at <http://www.labor.state.ny.us/iba/index.htm>

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- 5 The earlier application was the subject of three Orders to Show Cause served upon the Board ((1) Order to Show Cause (NYS Supreme Court – County of Queens, Index Number 14585/04), signed October 25, 2004, with a Temporary Restraining Order, temporarily enjoining the Board from taking any action based upon the amended Certificate of Incorporation, (2) Order to Show Cause (NYS Supreme Court – County of Queens, Index Number 14585/04), signed October 26, 2004, and (3) Order to Show Cause (NYS Supreme Court – County of Queens, Index Number 14585/04) signed October 27, 2004; and
6. By Order dated February 2, 2005, NYS Supreme Court Justice Allan B Weiss dismissed the three (3) Orders to Show Cause listed in paragraph number 5 above, in their entirety, on the basis there is no action pending before the court; and
- 7 By letter dated October 27, 2004, the attorneys for the Applicant notified the Board that the first application, subject of the litigation referenced in paragraph number 5 above, was withdrawn The Board discontinued this application by decision dated February 23, 2005, and
8. The Board began receiving written requests to intervene and be heard concerning the application almost as soon as it was filed, and continued to receive letters and petitions, both in support of and objecting to the application, from members of NYSCOPBA As of the date of this Resolution, the Board has received approximately 4930 letters/signatures from NYSCOPBA members, with 2929 letters/signatures in support of the application, and 2001 letters/signatures objecting to the application, and
- 9 Upon written notice by the Board, dated December 21, 2004, a public hearing was scheduled to be held, in Albany, New York at 10 00 a.m on Tuesday, January 18, 2005 Thereafter, an Amended Notice of Public Hearing, for the same date and time but relocating the hearing's location to a larger venue, was issued on January 6, 2005 A copy of the amended notice was sent via first class mail to everyone who had indicated an interest in the application and provided the Board with a legible mailing address, and
10. A public hearing was held on Tuesday, January 18, 2005, in Albany, New York All persons wishing to address the Board concerning the pending application were given an opportunity to do so; and
11. The Board having made such inquiry into the objectives and purposes of the application as it has deemed necessary and advisable; and

5

12 The Board having given due consideration to all the papers filed herein and the comments made during the public hearing, makes the following determinations pursuant to the provisions of Labor Law Section 104

- (a) the original certification of incorporation was approved by the Industrial Board of Appeals on February 25, 1998, under docket number CI-3-98, and filed with the New York State Department of State on March 2, 1998.
- (b) the applicant is an organization set up by its constitution as a representative or delegate voting system, as authorized by NYS Not-for-Profit Corporation Law Section 603 (d), and the Executive Assembly is the body of elected representatives who, by law, have and may exercise all the powers, rights and privileges of members at an annual meeting
- (c) that at a scheduled Executive Assembly meeting on October 26, 2004, the Executive Assembly did consider and vote, by a vote of 59 for and 27 against, to approve the proposed amendment to the Certificate of Incorporation, and direct the filing with the appropriate officials and agencies a Certificate of Amendment of the Certificate of Incorporation, and to execute and file such other documents as may be necessary to implement, effectuate and defend its provisions
- (d) that the application for approval of a corporate document, under review herein, is complete, and was filed by a party that was authorized and directed to do so
- (e) that the stated purpose of the proposed amendment is consistent with public policy and the Labor Law.
- (f) the application for approval of a Certificate of Amendment to the Certificate of Incorporation should be approved.

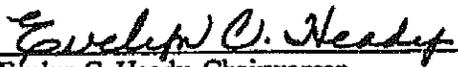
b.

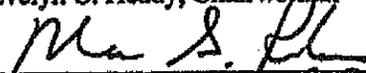
NOW, THEREFORE, IT IS HEREBY

RESOLVED:

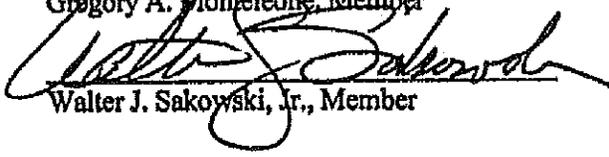
1. That the said Certificate of Amendment to the Certificate of Incorporation is approved;
and
- 2 That a certified copy of this Resolution be annexed thereto

WITNESS, the signatures of the Members of the Industrial Board of Appeals and the Seal of the Industrial Board of Appeals of the State of New York, at Albany, New York, on the 16th day of March 2005.


Evelyn C. Heady, Chairwoman


Mark S. Perla, Member


Gregory A. Monteleone, Member


Walter J. Sakowski, Jr., Member

Dated and Filed in the Office
of the Industrial Board of Appeals,
at Albany, New York,
on March 16, 2005.

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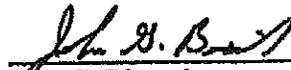
CERTIFICATION

STATE OF NEW YORK)
)
INDUSTRIAL BOARD OF APPEALS) ss.

I, John G Binseel, an attorney licensed to practice in all the courts of the state of New York and counsel to the New York State Industrial Board of Appeals, do hereby certify that:

The attached is a true copy of a Resolution of Approval dated March 16, 2005, in the Matter of the Application of NEW YORK STATE CORRECTIONAL OFFICERS AND POLICE BENEVOLENT ASSOCIATION, INC., filed under IBA Docket Number CI 04-023 which I have compared with the original in this office and which I do hereby CERTIFY to be a true and correct transcript thereof.

IN WITNESS WHEREOF, I set my hand and the seal of the Industrial Board of Appeals, this 16th day of March, 2005.



John G. Binseel
Deputy Counsel

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CERTIFICATE OF AMENDMENT OF
THE CERTIFICATE OF INCORPORATION OF
NEW YORK STATE CORRECTIONAL OFFICERS
AND POLICE BENEVOLENT ASSOCIATION, INC.

Under Section 803 of the Not-for-Profit Corporation Law

300

STATE OF NEW YORK
DEPARTMENT OF STATE

MAR 16 2005

FILED
TAXS
BY: Walt

Albany

HINMAN
STRAUB

ATTORNEYS AT LAW
121 STATE STREET
ALBANY, NEW YORK 12207-1593

2005 MAR 16 PM 4:24

FILED

2005 MAR 16 PM 3:59

RECEIVED

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Constitution and Bylaws

New York State Correctional Officers &
Police Benevolent Association, Inc.

Adopted on August 18, 1998
Amended on August 9, 2017

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ARTICLE I NAME

The name of this organization shall be the New York State Correctional Officers & Police Benevolent Association, Inc., hereinafter referred to as the "Association". The principal offices of the Association shall be located in the County of Albany and State of New York. This Association is a non-profit corporation, organized and existing pursuant to the Not-For-Profit Corporation Law of the State of New York, and its Certificate of Incorporation has been filed with the Secretary of State, with the due consent of the appropriate authorities.

ARTICLE II PURPOSE AND OBJECTIVE

The primary purpose and objective of the Association shall be to improve the terms and conditions of employment of public employees, and in particular, members of the Security Services Bargaining Units of the State of New York, to represent such employees in collective bargaining pursuant to Article 14 of the Civil Service Law of the State of New York, and to otherwise bring together and promote the welfare of such employees, including, but not limited to, preventing wherever possible the privatization of public employee services and functions. The Association shall have the general powers set forth in Section 202 of the Not-for-Profit Corporation Law of the State of New York and the powers set forth in this Constitution and Bylaws.

The Association remains independent and never becomes a member of any organization that can or will dictate policy for the Association.

ARTICLE III MEMBERSHIP

Membership in this Association shall consist of three (3) types. First, active membership shall be open to all employees represented by the Association. Second, associate membership shall be open to all retired employees of any bargaining unit represented by the Association. Third, honorary membership shall be open to those individuals who have been determined by the Association to have made outstanding contributions to the Association or its members. Associate or honorary members cannot hold office or vote on Association business.

Any individual(s) employed by an establishment whose employees are represented by the Association shall be eligible for membership in the Association upon their first day of employment.

To become an active member an employee must execute and provide to the Association a dues deduction authorization (membership) card in a form prescribed by the Association. Individuals granted membership in the Association shall maintain their status as members in good standing by maintaining their dues obligation and by upholding this Constitution and Bylaws.

ARTICLE IV RESERVATION OF MEMBERS' RIGHTS

The rights reserved to active members of the Association shall include, but are not limited to, the right to ratify any and all collective bargaining agreements for bargaining units in which the members are employed; such ratification process is to be conducted by an independent firm; the right to have negotiating teams which fairly reflect the composition of the bargaining units which they represent; the right to ratify any and all amendments to this Constitution and Bylaws before such amendments become effective; the right to vote in the election of officers and officials of the Association, pursuant to the procedures contained in this Constitution and Bylaws; and the right to be polled prior to endorsement by the Association of candidates for political office.¹ In the event the Association conducts a poll for the endorsement of a candidate for political office, such poll shall be conducted by the Election Committee of NYSCOPBA. The count of the endorsement poll shall be open for viewing to any member of NYSCOPBA in good standing.²

The Association further hereby acknowledges and supports by financial means and otherwise the rights of the members to identify and address the unique needs and concerns of the membership through bargaining, legislative and administrative action.

ARTICLE V ELECTION OF OFFICERS

A. Executive Board Officers ³

The officers of the Association shall constitute the Executive Board. The term of office for all Executive Board Officers in the 2014 elections will be through September 2017, or until a successor for that office has been certified by the Association⁴. For all subsequent elections, the term of office shall be three (3) years for all Executive Board Officers or until a successor is certified by the Association (as in the case of a run off election). Not less than sixty (60) days prior to the date established for the election of Executive Board Officers, the Association shall call upon the membership to submit nominations for Executive Board Officers to the Election Committee. The Election Committee shall review all nominations submitted and verify that said nominee(s) are eligible to run for and hold an Executive Board office. The Election Committee shall notify all prospective candidates of their eligibility status not more than twenty (20) days after the nomination(s) were received by the Election Committee. Elections shall be by mail ballot, members shall have thirty (30) days to return ballots, and ballots shall be counted immediately following said thirty (30) day period.⁵

In order for an Executive Board candidate to be victorious in an election, the candidate must receive a majority of all votes cast (50% +1 vote). If none of the candidate(s) receive a majority of all votes cast, a second (run off) election will be conducted within two (2) weeks after the first election between the two candidates receiving the most votes in that election. In the event that only one individual who meets the eligibility criteria set forth in

Article V Section B is nominated as a candidate for an Executive Board Officer for NYSCOPBA, the unopposed individual will be considered victorious for said position and no ballots will be necessary to conduct an election for that position. The victorious unopposed individual will assume the duties of the elected position upon certification of the initial ballot count.⁶

B. Eligibility

Eligibility to be nominated for and elected to hold office as an Executive Board officer in the Association shall be extended to any active member who, at the time of nomination;

- 1) At least 21 years of age at time of nomination
- 2) Has been an active member in continuous good standing for period of 2 consecutive years as of the date of election
- 3) Has served as an association official or officer not less than six consecutive months
- 4) Has not been otherwise disqualified under any other provisions as set forth in this constitution

ARTICLE VI ELECTION OF OFFICIALS

A. Sector Stewards

The Executive Assembly has the sole authority to establish and/or dissolve a sector.⁷ A sector shall consist of Association members employed at an individual work site or facility located within one of the five (5) geographic regions established by the Executive Assembly, provided however, a Sector may also include Association members of multiple work sites or facilities.⁸

Elections for Sector Stewards shall be held for each Sector⁹. The term of office for Sector Stewards shall be two (2) years. Commencing with the Sector Steward elections in 2019 the term of office shall be three (3) years¹⁰. To be eligible to run for and hold office as a Sector Steward, one must be an active member in continuous good standing for no less than six (6) consecutive months, at the time of the nomination.¹¹ The Sector Stewards shall elect one steward from that sector as Chief Sector Steward.

In the event that a vacancy occurs during a Sector Steward's regular term of office, the remaining stewards from the sector in which the vacancy has arisen shall select a candidate who is an active member in continuous good standing with the Association. Should the Sector Stewards be unable to reach agreement within thirty (30) days on a candidate to fill the vacancy, an election will be held.¹² Additional Sector Steward positions will be filled in accordance with the established Election Committee policy for filling vacancies.¹³

If a Chief Sector Steward or Sector Steward should resign from their elected position or elected sector position, a letter of resignation shall be submitted to the respective regional Vice President and Recording Secretary in accordance with the Sector reporting policy.¹⁴

The number of Sector Stewards at facilities or worksites shall be no less than;

Worksites/Facilities With

1-100 Employees	3	201-300 Employees	7	401+ Employees	11
101-200 Employees	5	301-400 Employees	9		

Additional Sector Steward positions may be established by a vote of the membership as outlined in Article 13(b). Any sectors with additional Stewards, the additional Stewards would remain in place until such number is reduced by that sector in accordance with Article 13(b).¹⁵

B. Officer and Official Election Procedures

Elections for officers and officials of the Association shall be conducted in accordance with the following procedures:

- 1) No candidate(s) shall hold more than one position with the Association simultaneously.
- 2) The candidate(s) for Sector Stewards receiving the highest number of votes for all duly established steward positions in that sector shall be declared the winners and shall assume that office immediately.
- 3) All elections shall be by secret ballot vote.
- 4) In the event of a tie vote between two or more candidates for the last available vacancy, there will be a run-off election among those candidates so affected.
- 5) Write-in candidates shall not be allowed.
- 6) Absentee ballots will be accepted in accordance with policies established by the Election Committee and approved by the Executive Board.
- 7) Any candidate(s) nominated for an Association office must be and remain an active member in good standing.
- 8) All elections for Executive Board Officers shall be conducted by an outside independent agency.
- 9) The Election Committee shall recommend and thereafter shall adopt procedures for expeditiously addressing challenges to the eligibility of nominees and/or the election process.

C. Recall of Sector Stewards

A Sector Steward may be subjected to a recall vote of the sector membership for violations of the Constitution and Bylaws, illegal activity, and/or failure to follow the lawful directions of the sector membership. The person or group from a sector requesting a recall vote against a Sector Steward must notify the Judicial/Ethics Committee in writing of specific violations of the Constitution and Bylaws, illegal activity, and/or failure to follow the lawful directions of the sector membership. The Judicial/Ethics Committee will, within 30 days of receipt of notification, inform the person or group instituting the recall, if said charges are bona fide. Once the person or group from the sector receives notification from the Judicial/Ethics committee that said charges are bona fide, that person or group must give prior written notice to the sector to have a motion to recall placed on the agenda. The notice must be given at least fourteen (14) days prior to the sector meeting and posted. At the sector meeting, the motion, with a second, requesting a recall vote of the Sector Steward must be made. If no quorum exists that motion must be placed on the agenda for the next sector meeting and posted no later than fourteen (14) days prior to that meeting. A quorum must be present in order for a recall vote motion to pass. In the event that after two consecutive sector meetings, a quorum has not been present, said motion would automatically be rescinded.¹⁶

D. Prohibited Activities¹⁷

An employee of the Association is prohibited during his/her normal working hours, from actively campaigning for the election or defeat of an Association member for a particular elective office within the Association. An employee, elected officer or member¹⁸ of the Association shall also be prohibited from utilizing any Association resources, including but not limited to computers, copiers, fax machines and telephones, regardless of whether the employee is actually conducting such activities during his/her normal working hours.

E. Sergeants' Liaison or Law Enforcement Equivalent¹⁹

A statewide elected Sergeants' Liaison or Law Enforcement equivalent official will serve as a member of the Executive Assembly, with all rights of the Executive Assembly except the right to vote, to be elected simultaneously with the Executive Board and a 3-year term of office as set forth in Article V Section A. Only supervisors can vote on this position. To be eligible for this position you must meet a supervisors criteria and;

- 1) At least 21 years of age at time of election
- 2) Has been an active member in continuous good standing for period of 2 consecutive years as of the date of election

- 3) Has served as an association official or officer not less than six consecutive months
- 4) Has not been otherwise disqualified under any other provisions as set forth in this constitution

ARTICLE VII DUES²⁰

The dues for active members shall be fifteen and 50/100 dollars (\$15.50) per pay period, payable through payroll deductions. Commencing January 1, 1999, the dues for active members of the Association shall automatically be increased by the same percentage as the increase in salary of members of the collective bargaining unit. No such increases in dues of the Association shall be effective until the effective date of each such increase in salary of members of the collective bargaining unit. The Executive Board shall compute and announce the amount of the revised dues whenever there is to be an increase in dues based upon an increase in salary. Dues for associate members shall be twenty five dollars (\$25.00) per year. There shall be no dues for honorary members. The dues obligation shall be waived for any member who has been taken off their respective agency's payroll due to any of the following: Suspension from a Notice of Discipline; Military Leave; Sick Leave; FMLA; or Workers' Compensation Leave, until such time as the member is returned to the payroll or their employment is terminated.²¹

A. Legal Defense Fund²²

NYSCOPBA will set up a Legal Defense Fund for the defense (criminal) of its members. This fund will only be used for the defense of criminal charges or a criminal investigation against bargaining members where it shall appear to the Executive Board, in its discretion, that the actions alleged or being investigated occurred while the member was engaged in the lawful performance of his or her duties and that assisting in such defense shall be consistent with the overall interests of the general membership. If criminal charges are brought, the member(s) must file and qualify for reimbursement under New York State POL Section 19. Member(s) must execute a signed assignment of any funds received back from New York State to NYSCOPBA and returned to the Legal Defense Fund. As soon as this fund is approved in accordance with NYSCOPBA's Constitution, it will be established with \$1.00 per pay period per member. This will be a dedicated fund and cannot be used for any other purpose. The use of this fund will be determined on a case by case basis by the factors presented by the Regional VP(s) and by a vote of the Executive Board. The Executive Board will decide on a case by case basis what resources will be utilized for the defense.²³

B. Rainy Day Fund²⁴

NYSCOPBA has established a Rainy Day Fund. The dues to pay for the Rainy Day Fund shall be an increase of \$2 per pay period.

ARTICLE VIII AGENCY SERVICE FEE

All employees represented by the Association for purposes of collective bargaining who are not members in good standing shall be responsible for the payment of an agency service fee (through payroll deduction) in accordance with Section 208.3 of the Civil Service Law of the State of New York.

The Association shall provide a notice and rebate procedure in conformity with applicable state and federal laws.

ARTICLE IX THE EXECUTIVE BOARD

A. Composition

The Executive Board shall be the managing body of the Association and shall consist of a President, an Executive Vice President, a Treasurer, a Recording Secretary and six (6) Vice Presidents, one of whom shall be non-corrections.^{25,26}

B. Duties and Powers

The Executive Board shall have general supervision and control over the day to day affairs of the Association, and for the implementation of policies adopted by the Executive Assembly. Except as otherwise provided in this Constitution and Bylaws, all decisions of the Executive Board shall require a vote of the majority of the Executive Board members at a meeting. Each Executive Board member shall have one (1) vote excluding the President who shall vote only to break or make a tie.²⁷ A quorum of the Executive Board shall be seven (7) members.

C. Meetings

The Executive Board shall meet at least once monthly at the call of the President or by a majority of the Executive Board, provided however, that all members of the Executive Board are provided sufficient notice of said meeting and the opportunity to attend. The President shall chair Executive Board meetings. In the absence of the President, the Executive Vice President shall be the chairperson. In the absence of the President and the Executive Vice President, the President's designee shall be the chairperson. The Executive Board shall designate a meeting during the month of March each year as the annual meeting of the Executive Board of the Association.

D. Attendance at Meetings

Any one or more members of the Executive Board or any committee thereof may participate in a meeting of the Executive Board or the committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

E. Action Without Meeting

Any action required or permitted to be taken by the Executive Board or by any committee of the Executive Board may be taken without a meeting if all members of the Executive Board or of the committee consent in writing to the adoption of a resolution authorizing the action and the writing or writings are filed with the minutes of the proceedings of the Executive Board or of the committee.

F. Vacancies

In the event that a vacancy occurs during the regular term of office of an Executive Board member, the Executive Board shall appoint from among the Executive Assembly and/or employees of the Association, who are members in good standing with NYSCOPBA, a candidate to serve the remainder of the regular term of the vacated Executive Board position(s), contingent upon a majority vote of the Executive Assembly approving that appointment.²⁸

Should the vacancy occur in the position of regional Vice President or Law Enforcement Vice President the appointee shall hail from that region or unit. The appointment shall be contingent upon a majority vote of the Executive Assembly members of that region.²⁹

In the event the Executive Assembly does not confirm the Executive Board appointment, the respective region or unit may fill the vacancy prior to the Executive Assembly adjourning.³⁰

G. Compensation

In addition to the salaries reimbursed to their employer for union leave, the members of the Executive Board shall receive compensation for providing services to the Association as follows: President, \$25,000 per year; Executive Vice President, \$22,500 per year; Recording Secretary, Treasurer and Vice Presidents, \$15,000 per year.

H. Removal For Cause ³¹

1) Notwithstanding any inconsistent provision of Article XI of this Constitution and Bylaws, a standing committee of the Association to be known as the "Recall Panel"

is hereby established. The Recall Panel shall consist of seven (7) members, to be nominated and elected by the Executive Assembly, as follows: Each of the five regions of correctional officers and correctional sergeants (North, South, West, Mid-Hudson and Central) shall elect one member; the Law Enforcement sector shall elect one member; and one member, who shall be a sergeant, shall be elected by the Executive Assembly as a whole. Any member in good standing is eligible to serve on the Recall Panel. Recall Panel members shall serve a two-year term. No member of the Recall Panel is eligible to serve on any other standing committee of the Association. A quorum of the Recall Panel shall be four members. Upon convening for the purpose of hearing charges, the Recall Panel itself shall choose a chairperson and a clerk. The clerk shall be responsible for documenting the proceedings of the Panel. The chairperson shall preside at hearings of the Panel and shall be eligible to vote only to break a tie. All votes of the Recall panel are decided by a majority vote.

2) Any member or group of members in good standing may file written charges seeking the removal for cause of a member of the Executive Board. The charges shall clearly state that a recall vote within the group or region that elected the accused member is requested and shall include a list of all witnesses to be called and all evidence to be presented at a hearing if it is determined that a full hearing is necessary. The grounds for such charges may include, but are not limited to: violations of the Association's Constitution and Bylaws; failure to follow the lawful direction of the Executive Assembly; and involvement in activities culminating in arrest for misdemeanors and/or felonies.

3) Charges shall be filed by delivering them, by mail or hand delivery, to NYSCOPBA's Recording Secretary, who shall, by certified mail within fourteen (14) calendar days of receipt thereof, provide each member of the Recall Panel and each member of the Executive Board with a copy thereof. In the event the Recording Secretary is the subject of the charges, the charges shall be filed by delivering them to the President, who shall assume the responsibilities of the Recording Secretary for the purposes of carrying out the provisions of Article 9 section H.

4) Upon receipt of the charges, the appropriate Board member shall immediately schedule the Recall Panel for a preliminary hearing. The Recall Panel will meet to discuss the charges and determine if a full hearing is to be held on those charges. If the Recall Panel determines a full hearing is to be held, the appropriate Board member shall notify the charging party and the accused officer, they shall be advised in writing of the date, time and place of the hearing and of the right to appear and present evidence and witnesses with respect to the charges. Full discovery rights will be afforded to the accused to include all evidence, documentation and a list of witnesses. Adherence to formal procedure and to the strict rules of evidence shall not be required. Following the conclusion of the hearing, the Recall Panel shall make written findings upon the charges and shall recommend to the Executive Assembly whether a vote to remove the officer for cause should be conducted within the group or region from which the accused member was elected. The Recall Panel shall issue its

findings and recommendation, within sixty (60) calendar days following receipt of the charges. A copy of the findings and recommendation shall be delivered to the Recording Secretary.

5) The Recording Secretary shall mail a copy of the findings and recommendations of the Recall Panel to each Chief Sector Steward at least fourteen (14) days prior to the next Executive Assembly meeting or, where there are less than fourteen (14) days remaining before the next Executive Assembly meeting, as soon as practicable.

6) The Recall Panel shall hear charges against members of the Executive Board in cases where removal for cause is sought, and shall make findings with respect to the charges. The Recall Panel will meet to decide whether a full hearing on the charges should be conducted. If, during its initial screening of the charges, the Recall Panel finds no basis for the recall and determines a full hearing is not necessary, the Recall Panel may recommend dismissal of the charges. The recommendation of the Recall Panel shall be presented to the Executive Assembly.

If a full hearing on the charges is conducted, the Recall Panel will make a recommendation to the Executive Assembly as to whether a vote to remove such officer should be conducted from among the region or group electing him or her. The role of the Recall Panel shall be advisory. The Executive Assembly shall determine whether a recall vote to remove such officer for cause shall be conducted from among the region or group electing him or her. A determination to conduct a recall vote shall require a two-thirds vote of the Executive Assembly.

7) The Executive Assembly shall consider the findings and recommendations of the Recall Panel at its first meeting following their issuance, and may accept or reject them in whole or in part, or take such other action with respect to the charges, consistent with law and with the Constitution and Bylaws, as it may deem appropriate. A motion to conduct a vote within the group or region that elected the accused officer as to whether that officer should be removed for cause shall require a two-thirds vote of the Executive Assembly

8) A vote as to whether the accused officer should be removed for cause shall be conducted by an independent agency, under the direction of the NYSCOPBA Election Committee, with ballots to be mailed within thirty (30) days of the vote of the Executive Assembly authorizing it. The mailing shall contain, in addition to the ballot, a description or summary of the findings and recommendation of the Recall Panel and of the action taken by the Executive Assembly with respect thereto. The determination as to whether the accused officer shall be removed for cause shall be by majority vote of the members in the group or region from which he or she was elected.

9) The Executive Board may, in the exercise of its authority contained in Section 714 of the Not-for-Profit Corporation Law, at any time during the pending proceedings of

the Recall Panel and of the Executive Assembly with respect to the charges, determine whether to suspend the accused officer and for what period of time.

ARTICLE X THE EXECUTIVE ASSEMBLY

The Executive Assembly shall consist of the Executive Board, all Chief Sector Stewards of the Association and the non-voting Sergeants' Liaison or Law Enforcement equivalent³². The Executive Assembly shall be open only to members of the Association, its employees, consultants hired to serve the Association or guests authorized by the Executive Board or Assembly.³³

A. Voting Body

The voting body of the Executive Assembly shall consist of the members of the Executive Board, all Chief Sector Stewards of the Association and the non-voting Sergeants' Liaison or Law Enforcement equivalent.³⁴ A quorum of the Executive Assembly shall be a majority of the voting body of the Executive Assembly.³⁵ In the event that a Chief Sector Steward is not in attendance, his/her designee shall act as a voting member provided that said designee hails from the same sector as the Chief Sector Steward and provides verification of designee status in accordance with Executive Assembly policy. Each voting member of the Executive Assembly shall have the power of one (1) vote, provided, however, that if twenty (20%) percent of the voting membership shall request, voting by members of the Executive Assembly shall be by weighted vote. The weight of each Chief Sector Steward's vote shall be as follows:

Sectors with the following number of active members in good standing shall receive:

1-100	1 vote	701-800	8 votes	1401-1500	15 votes
101-200	2 votes	801-900	9 votes	1501-1600	16 votes
201-300	3 votes	901-1000	10 votes	1601-1700	17 votes
301-400	4 votes	1001-1100	11 votes	1701-1800	18 votes
401-500	5 votes	1101-1200	12 votes	1801-1900	19 votes
501-600	6 votes	1201-1300	13 votes	1901-2000	20 votes
601-700	7 votes	1301-1400	14 votes		

B. Roll-Call Votes

A vote on any motion of substance that is opposed by 10 or more voting members shall be subject to a roll call vote. When a roll call vote is not necessary, those voting members

who are opposed to the motion shall stand and state their name and shall be recorded in the minutes of the Executive Assembly meeting. Procedural motions, e.g. to postpone definitely, to commit, to recess, to close debate, shall not be the subject to roll call votes without a two-thirds (2/3) vote so ordering and shall be recorded in the minutes of the Executive Assembly meeting. Copies of said minutes shall be distributed to all Chief Sector Stewards who shall post a copy at work sites/facilities for not less than fifteen (15) days. Voting shall be in accordance with procedures established by the Executive Assembly.³⁶

C. Agenda

The Recording Secretary of the Association shall issue in writing a detailed agenda not less than Fourteen(14) days prior to each Executive Assembly meeting to enable the Chief Sector Stewards to consult with stewards and members at their sectors, concerning the agenda items.³⁷ By a sixty percent (60%) vote, the Executive Assembly may consider new business not included on the agenda, unless previous notice is otherwise required by law, the Articles of Incorporation, or the Constitution & Bylaws.³⁸

D. Powers and Duties

The Executive Assembly shall be the governing body of the Association with respect to its overall policies, aims and purposes. Meetings of the Executive Assembly shall be convened no less than five (5) times a year, at a time and place approved by the Executive Assembly and shall be chaired by the President or his/her designee. There shall be no more than three months between Executive Assembly meetings. All voting members of the Executive Assembly are required to attend Executive Assembly meetings unless on pre-approved leave or official Association business as specified by the Executive Assembly. Failure of voting members of the Executive Assembly to attend two (2) consecutive meetings of the Executive Assembly, unless excused by the Executive Assembly, is grounds for removal of that person from the Executive Assembly.³⁹

The Executive Assembly shall be charged with aiding the Executive Board and the Collective Bargaining Committee in the development of contractual strategies, language and monetary proposals, and any other issues having a direct impact on the membership at-large.

The Executive Assembly shall have the authority to interpret this Constitution and Bylaws and all controversies arising there under. Any interpretation adopted by majority vote of the Executive Assembly in good faith shall be binding upon all members, officials and officers.

E. Budget⁴⁰

Once the Executive Assembly approves a budget for a fiscal year, any new, unfunded initiative not budgeted for will require a corresponding (dollar-for-dollar) reduction in budgeted money prior to approval.

ARTICLE XI COMMITTEES

The Association shall have the following standing committees:

- 1) Collective Bargaining Committee
- 2) Health and Welfare Committee
- 3) Finance Committee
- 4) Grievance/Legal Assistance Committee
- 5) Legislative/Political Action Committee
- 6) Election Committee
- 7) Judicial/Ethics Committee
- 8) Publicity and Meetings Committee
- 9) Constitution and Bylaws Committee
- 10) Veterans Committee⁴¹

The purpose of each committee shall be to research, review, recommend, propose and advise the Executive Assembly on matters falling within the purview of their respective committee. The committee(s) shall have the right to bring its recommendations and/or proposals before the Executive Assembly for consideration.

A. Duties and Responsibilities

The duties and responsibilities of each committee shall be determined by the Executive Assembly except as specified in this Constitution and Bylaws.

B. Term of Office

Committee members shall serve a two (2) year term. Commencing with the Sector Steward elections in 2019, the term shall be three (3) years⁴². There is no limitation on the number of terms a committee member may serve, except as specifically provided in this Constitution and Bylaws. Failure of any committee member to attend three (3) consecutive committee meetings of their respective committee, unless excused by the remaining committee members, will be removed from said committee.⁴³

Where as a Steward's term of office may expire before his/her committee obligation is completed, the former Steward may complete his/her committee obligation on an interim basis until a new committee is elected by the Executive Assembly.⁴⁴

C. Committee Composition

All committees shall consist of seven (7) members. At least one member of each committee shall be an Executive Board member. The remaining six (6) members of the committee shall consist of one member from each region and one from the Law Enforcement group. They shall be nominated and elected by plurality from within the Executive Assembly or elected worksite Sector Steward.^{45,46}

Each committee shall designate a chairperson and recording secretary from among the committee members except the Finance Committee which shall be chaired by the Treasurer.

If a committee member elected by the Executive Assembly is unable to complete his/her term, he or she shall furnish a written resignation. Nominations to replace that committee member shall be received at the next Executive Assembly meeting. An election shall be held to fill the committee vacancy. Should no candidate accept the nomination, the committee shall select a member of the Executive Assembly or elected worksite Sector Steward to complete the unexpired term of the vacated position. In the event that the election process fails to entertain enough candidates to fill a committee, the Executive Board member in charge of said committee will appoint such vacancies.⁴⁷ When a known committee vacancy occurs, the Regional VP or Law Enforcement VP, may appoint a member in good standing to fill the vacancy on an interim basis, until such time as nominations and elections are held at the next scheduled Executive Assembly as stated above.⁴⁸

D. Finance Committee

The Finance Committee shall have the responsibility, among other things, to make recommendations to the Executive Board and the Executive Assembly concerning the proposed yearly budget for the Executive Assembly's approval, the salaries and compensation of Association personnel, standards for payment of expenses, and policies and procedures for distribution of funds to sectors for their operating expenses.⁴⁹

E. Special Committees

The Executive Assembly may establish additional special committees as it deems necessary, provided that special committee(s) shall conform to the guidelines set forth in this Constitution and Bylaws.

F. Constitution and Bylaws Committee

Be it resolved that the Constitution and Bylaws Committee is authorized to correct article and section designations, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the intent of

amendments to the Constitution and Bylaws after their adoption, provided that any such modifications shall be reported in written form to the Executive Assembly prior to an updated printing of the Constitution and Bylaws.⁵⁰

ARTICLE XII BUSINESS AGENTS

A. Duties

A Business Agent/Assistant will be an employee working directly for the respective regional Vice President. Business Agents/Assistants shall perform field services at sectors, including, but not limited to, labor management committees, representation of members at proceedings at worksites, and otherwise assist Sector Stewards and regional Vice Presidents in the performance of duties.

B. Composition

There shall be not more than seven (7) Business Agents employed by the Association unless the Executive Assembly shall otherwise determine.

C. Removal of Business Agent

A Business Agent/Assistant shall be removed only for good and sufficient reasons. The regional Vice President shall give notice of a meeting to remove the business agent to all Chief Sector Stewards via telephone, and submit an agenda, which shall include the reasons for the requested removal. The notice and agenda shall be sent via certified mail at least thirty (30) days prior to the date of the meeting to all Chief Sector Stewards of the region. The Business Agent/Assistant may be afforded the opportunity to provide a written response or appear at the meeting to discuss why he/she should not be removed. There must be a two-thirds (2/3) majority of the regional Chief Sector Stewards or their designee's present at said meeting with a two-thirds (2/3) majority requirement of those present on any vote taken. If the required two-thirds (2/3) vote is not received, the present and/or interim Business Agent/Assistant shall remain in that position until a subsequent meeting is held pursuant to this Article. In cases that a regional meeting is not practical because of geographical limitations, the next scheduled Executive Assembly meeting would be utilized so long as appropriate notice is provided. Notwithstanding the procedures above, if a Business Agent/Assistant embezzles or misappropriates funds, or performs an egregious act, the Executive Board may temporarily remove the Business Agent/Assistant until the above procedures are completed.⁵¹

D. Business Agent/Assistant Vacancy

The Executive Board may fill any Business Agent/Assistant vacancy on an interim basis. A Business Agent/Assistant shall be filled on a permanent basis by the respective regional Vice President with approval of the respective region or unit. The following procedure will govern this process. The regional Vice President will inform the Recording Secretary to post the Business Agent/Assistant position vacancy which shall be posted for thirty (30) calendar days. The regional Vice President shall provide notice of a meeting to all Chief Sector Stewards via telephone, and the agenda shall be sent via certified mail at least thirty (30) days prior to the date of the meeting to all Chief Sector Stewards of the region. A regional meeting shall be conducted within two weeks after the closing of the Business Agent/Assistant vacancy posting. There must be at least 2/3 of the regional chief sector stewards or their designees present at the meeting with a 50% plus 1 majority requirement of those present on any vote taken to replace the Business Agent/Assistant. In cases that a regional meeting is not practical because of geographical limitations, the next scheduled Executive Assembly meeting would be utilized so long as appropriate notice is provided. This article shall be subject to the authority of the Executive Assembly as provided by the Certificate of Incorporation.

ARTICLE XIII MEETINGS

A. Statewide General Membership Meetings

Statewide general membership meetings may be called by the Executive Board, the Executive Assembly, or by a petition filed with the Executive Board and signed by a minimum of ten (10%) percent of the active membership in good standing. The President or his/her designee shall chair such meetings.

The Executive Board shall determine the date, time and place for such a meeting in accordance with stipulations contained herein (if any). The Recording Secretary shall cause to be made a posting at each sector that notifies the membership of the date, time, purpose and location of the statewide general membership meeting. This posting shall be made no less than thirty (30) days prior to the date of the general membership meeting taking place. A statewide general membership meeting shall not occur within twelve (12) months of the last statewide general membership meeting.

B. Sector Meetings

The primary purpose of sector meetings is to disseminate information to the membership, solicit input on issues affecting the members in that sector, and to resolve disputes that arise at the sector level. The Chief Sector Steward or his/her designee shall chair all such meetings.

It shall be the responsibility of the individual Sector Steward(s) to hold regular Association meetings for their membership. Such meetings are to be held no less than six (6) times per calendar year at times which will provide full opportunity for members to attend and provide input concerning sector and Association business. Failure of any Sector Steward to attend three (3) consecutive meetings of their respective sector, unless excused by the remaining Stewards of the said sector, is grounds for removal of that person as a Sector Steward.⁵²

Votes taken and decisions made at the sector meetings must be such that their impact does not affect other Association members in other sectors, and are not contrary to this Constitution and Bylaws, or rules, regulations, policies and/or existing collective bargaining agreement(s), and shall be deemed null and void if the decisions do not comply with these requirements.

At all sector meetings ten percent (10%) of the sector membership will be required to constitute a quorum and shall be qualified to transact business brought before it.

In the event that a quorum does not exist at a sector meeting, the membership in attendance may conduct business, provided however, that all such business is non-binding upon the sector membership until the following occurs:

- 1) A posting of the business transacted at the sector meeting shall be made at that sector and shall include:
 - a. A complete copy of all motions made at the meeting; and
 - b. The official tally for each motion
- 2) Notice of the time, date and place of the next sector meeting shall be provided; the first order of business shall be the adoption of the previous meeting minutes.

If said minutes are adopted by a majority vote of those members in attendance, those matters so decided at the previous meeting shall be binding upon the body, provided however, that they comply with Association policies, procedures, any applicable collective bargaining agreements, this Constitution and Bylaws and applicable law.

ARTICLE XIV JUDICIAL/ETHICS COMMITTEE (THE PANEL)

A. Purpose

A Judicial/Ethics Committee (the panel) shall be established whose purpose shall be to hear charges brought forth by a member(s) in good standing against another member(s) alleging that a violation of the Association's Constitution and Bylaws, rules, regulations and/or policies has occurred.

The panel shall establish and periodically evaluate the judicial procedures and guidelines of the Association and propose any changes it deems necessary to the Executive Assembly for approval.

The panel will make available, upon request to any active member, procedural guidelines detailing their rights under the Judicial/Ethics panel, provided however, that said guidelines must contain the following information:

- 1) Procedures for filing charges;
- 2) The basis for which charges may be filed;
- 3) Rights of the defendant;
- 4) Rights of the plaintiff;
- 5) The hearing process, including:
 - a. Time limitations (if any);
 - b. Rules of evidence;
 - c. Sanctions; and
 - d. Representation
- 6) How the records of the panel shall be maintained and who has access to such records; and
- 7) Rights of appeal and procedures therein

These guidelines shall be developed in cooperation with the Judicial/Ethics Committee and shall be furnished to the Executive Assembly in writing for final approval.

B. Composition of Judicial/Ethics Committee

The Judicial/Ethics Committee shall consist of seven (7) members. The Executive Vice President or his/her designee shall be the chairperson and the remaining six (6) members shall consist of one member from each region and one from the Law Enforcement group. They shall be nominated and elected from among the Executive Assembly or elected worksite Sector Stewards. In the event that the election process fails to produce enough candidates to fill a committee, the Executive Board member in charge of said committee will appoint qualified candidate(s) to fill the vacancy(s).

The panel shall appoint a recording secretary from among the panel members. No panel member, with the exception of the chairperson, shall be allowed to serve more than two (2) consecutive terms.

No directly interested party may serve on the Judicial/Ethics Committee. The Executive Assembly shall elect three alternate panel members from the Executive Assembly or elected worksite Steward to be used on a rotational basis to replace panel member(s) who become directly interested party(s) in pending charges. In the event that the chairperson of the Judicial/Ethics Committee is a directly interested party, he/she will be

excused and the remaining panel members shall appoint an interim chairperson from the remaining panel.^{53,54}

The Judicial/Ethics Committee shall meet on a regular basis at a time and place to be determined by the panel chairperson. Annual reports of the Judicial/Ethics Committee shall be submitted to the Executive Assembly, provided however, that any activity has transpired within the previous twelve (12) months.

ARTICLE XV CONSTITUTIONAL AMENDMENTS

Any proposed amendment to the Constitution and Bylaws must be submitted in written form and sent to the chairperson of the Constitution and Bylaws Committee. Any proposed amendment to the Constitution and Bylaws requiring resources of the Association will also be sent to the Finance Committee for review and analysis. The proposed constitutional amendment shall be returned to the member of origin no later than thirty (30) days after receipt by the Constitution and Bylaws Committee. Each proposed constitutional amendment shall be submitted by the Constitution and Bylaws Committee and, if applicable, the Finance Committee, to the Executive Assembly with their respective recommendations for adoption or rejection of the proposed amendment, within thirty (30) days after receipt, or as soon as practicable⁵⁵. Each proposed amendment shall be read at the next scheduled Executive Assembly for first reading; discussion, debate and amending purposes.⁵⁶ After the Constitution and Bylaws Committee report is completed, each Chief Sector Steward or his designee will receive a copy of said amendment.⁵⁷ At the next meeting of the Executive Assembly, members of the Executive Assembly shall vote on each proposed amendment. Adoption of each proposed amendment must be by a two-thirds vote of the Executive Assembly. Within sixty (60) days following adoption of a constitutional amendment by the Executive Assembly, the membership of the Association shall be entitled to vote by mail ballot in favor of or against the amendment. Acceptance of the amendment by a majority vote of the members voting shall constitute ratification of the amendment, and it shall thereupon become effective.

ARTICLE XVI DUTIES OF OFFICERS

A. President

The President shall:

- 1) Preside at all meetings of the Executive Board, the Executive Assembly, all general membership meetings and any other special meetings called by the body, the Executive Board or the Executive Assembly. If the President is not in attendance, his/her designee will preside over all such meetings except as otherwise specifically provided in this Constitution and Bylaws.
- 2) Report periodically to the membership regarding the progress and standing of the body.

- 3) Submit an annual report of the Association to the membership.
- 4) With the consent of the Executive Board, sign all agreements for the Association.
- 5) Carry out such additional lawful direction(s) of the Executive Board and/or the Executive Assembly as they may make from time to time.
- 6) Uphold the Constitution and Bylaws, policies, procedures and direction(s) of the Association.

B. Executive Vice President

The Executive Vice President shall:

- 1) Assist the President and perform the duties of the President in his/her absence.
- 2) If for whatever reason the President resigns, retires or is otherwise unable to complete his/her term of office, the Executive Vice President shall assume the position of the President for an interim period or until such time as the Executive Board shall select an interim President to complete the remainder of the presidential term, in accordance with the provisions as set forth in this Constitution and Bylaws.
- 3) Preside as chairperson of the Judicial/Ethics Committee.
- 4) Countersign checks drawn against the funds of the Association.
- 5) In the event the Treasurer resigns, retires or is otherwise unable to perform the duties of his/her office, the Executive Vice President shall be authorized to sign all checks drawn against the funds of the Association provided that such expenditures are approved by a majority vote of the Executive Board.
- 6) Act as general overseer of operations for the Association.
- 7) Carry out such additional lawful direction(s) of the Executive Board and/or Executive Assembly as they may make from time to time.
- 8) Uphold the Constitution and Bylaws, policies, procedures and directions of the Association.

C. Treasurer

The Treasurer shall:

- 1) Collect, receive and safely maintain all dues and other income of the Association in a bank(s) selected by the Executive Board.
- 2) Act as custodian for all assets and properties of the Association.
- 3) Sign all checks drawn against the funds of the Association.
- 4) Monthly, furnish to the Executive Board and quarterly to the Executive Assembly and make available for review to the membership, a detailed operating statement reflecting the expenditures for the previous month(s).

Such expenditure statements shall be reviewed quarterly by a certified public accountant and shall be audited annually by an independent accounting firm to assure compliance with Association policies and generally accepted accounting principles. Quarterly reviews and annual audits shall be made available for review by the membership.

- 5) Act as Association office administrator.
- 6) With the consent of the Executive Board, countersign all agreements for the Association.
- 7) Chair the Finance Committee meetings.
- 8) Carry out such additional lawful direction(s) of the Executive Board and/or Executive Assembly as they may make from time to time.
- 9) Uphold the Constitution and Bylaws, policies, procedures and direction(s) of this Association.
- 10) A copy of the proposed budget shall be transmitted or mailed to each member of the Executive Assembly, no later than October 1st of the current fiscal year.⁵⁸
- 11) Any Member in possession of union property at the end of his/her term or separation of employment must return all union property within thirty (30) days. Failure to comply will result in immediate suspension of union benefits and NYSCOPBA Constitutional rights, to include temporary non-payment of reimbursable expenses and or payroll, pending the outcome of Judicial and Ethics charges.⁵⁹
- 12) Assure members dues are not spent on litigation to determine or defend the interpretation of our Constitution without the express consent of the Executive Assembly when in session, in accordance with Article XV.⁶⁰

D. Recording Secretary⁶¹

The Recording Secretary shall:

- 1) Act as keeper of the records for the Association.
- 2) Ensure that the proceedings of all Executive Board, Executive Assembly, general membership and special membership meetings are recorded.
- 3) With the consent of the Executive Board, countersign all agreements for the Association.
- 4) Prepare and give notice of all Executive Board, Executive Assembly, general membership and special membership meetings.
- 5) Carry out such additional lawful direction(s) of the Executive Board and/or Executive Assembly as they may make from time to time.
- 6) Uphold the Constitution and Bylaws, policies, procedures and direction(s) of this Association.
- 7) Formally advise any individual(s) affected by Executive Assembly actions immediately following their adoption.⁶²

E. Vice President(s)

The Vice President(s) shall:

- 1) Provide services to sectors in a specific region of the State, such region to be determined by the Executive Assembly.
- 2) Coordinate the efforts of Business Agents and Sector Stewards in their respective region.
- 3) Designate two (2) Vice Presidents as co-signers for checks drawn against the funds of the Association.
- 4) Furnish to the Executive Board monthly and to the Executive Assembly bi-monthly a report of the pertinent issues affecting their respective regions.
- 5) Carry out such additional lawful direction(s) of the Executive Board and/or Executive Assembly as they may make from time to time.
- 6) Uphold the Constitution and Bylaws, policies, procedures and direction(s) of this Association.

F. Bonds

The Executive Assembly shall have the power to require any officer or employee of the Association, at the Association's expense, to provide a bond for the faithful discharge of his or her duties, in the form and with such surety or sureties, or without surety, as the Executive Assembly may deem advisable.

ARTICLE XVII ORDER OF BUSINESS

The rules contained in the current edition of Robert's Rules of Order, revised, shall be the parliamentary authority of the Association in all cases to which they are applicable and in which they are not inconsistent with this Constitution and Bylaws.

The following will be the format for all Association meetings;

- 1) Meeting called to order
- 2) Pledge of allegiance
- 3) Roll call of officers
- 4) Reading of minutes of previous meeting(s)
- 5) Reading of correspondence
- 6) Reports of officers
- 7) Reports of committee(s)
- 8) Unfinished business, (old business)
- 9) New business which shall be submitted in writing and signed by the maker
- 10) Adjournment

ARTICLE XVIII ASSOCIATION TRAINING

Basic training classes will be offered by the Association for all officials and officers. Such training classes shall be mandatory and are necessary for the success of this organization. Failure to attend such classes may be grounds for removal of any official or officer. The requirement of such training is to be determined by the Executive Assembly.

ARTICLE XIX LEGAL COUNSEL

Attorneys shall be available to the membership for arbitrations, negotiations, administrative agency and state and federal court litigation, and other services, including disciplinary proceedings, which the Executive Board may deem necessary, based upon the guidelines recommended by the Grievance/Legal Assistance Committee and adopted by the Executive Assembly.

ARTICLE XX SEVERABILITY

The provisions of this Constitution and Bylaws are severable and if any of the provisions herein shall be held illegal by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

ARTICLE XXI NEGOTIABLE INSTRUMENTS

All checks, drafts, bills of exchange, notes or other obligations or orders for the payment of money shall be signed in the name of the Association by the officer or officers that the Executive Board of the Association may from time to time designate by resolution.

ARTICLE XXII INDEMNIFICATION

Subject to the limitations contained in §722(a) of the New York State Not-For-Profit Corporation Law, the Association shall, to the full extent otherwise permitted by law, indemnify any person made, or threatened to be made, a party in any civil or criminal action or proceeding by reason of the fact that he or she, his or her testator or intestate, (a) is or was an officer or official of the Association, or (b) served any corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity at the request of the Association; and the Association may, in the discretion of the Executive Assembly, indemnify such other Association personnel to the extent permitted by law. The Association shall purchase officers' and officials' liability insurance in such amounts and with such coverage as the Executive Assembly may from time to time deem appropriate, to indemnify the Association for any obligation incurred as a result of the

indemnification of officers and officials, and to indemnify officers and officials in instances in which they may not be indemnified by the Association.

ARTICLE XXIII CORPORATE SEAL

The Corporate seal shall be circular in form and have inscribed thereon the name of the Corporation, the year 1998 and the words "Corporate Seal". The seal shall be in the custody of the Recording Secretary and shall be used as authorized by the Executive Board.

ARTICLE XXIV FISCAL YEAR

The fiscal year of the Association shall be fixed by the Executive Board.

ARTICLE XXV ASSETS AND FUNDS

A. Ownership

No director, officer or employee of the Association shall have any right, title or interest in any of the assets and funds of the Association, and all assets and funds of the Association shall be owned exclusively by the Association.

B. Management

The Association, its Executive Board, officers and agents shall so manage, maintain and control the assets and funds of the Association as to give full effect to the purposes of the Association as set forth in this Constitution and Bylaws.

C. General Operating Fund Treasury⁶³

The NYSCOPBA Executive Assembly and Executive Board shall ensure that spending practices never deplete the General Operating Fund Treasury below a six (6) million dollar threshold. Only when the Organization's very existence is threatened, shall the threshold be breached. The Organization would go into austerity budget mode and the Finance Committee would meet immediately.

ARTICLE XXVI DISSOLUTION

Upon the dissolution of the Association, no director, officer, or other private person shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and property shall pass to, or shall inure to the benefit of those organizations described in Section 201 of the Not-for-Profit Corporation Law. Any such

assets not so disposed of shall be disposed of by the Supreme Court of the State of New York for the county in which the principal office of the Association is then located, as provided by law, exclusively for such purposes or to such organization(s) as said court shall determine, which are organized and operated for the purposes set forth in Article I hereof.

ARTICLE XXVII LIMITATIONS

No part of the net earnings of the Association, if any, shall ensure to the benefit of any officer or official.

FOOTNOTES

¹Article IV- 3,199 Members voted, Yes 2,857, No 263, Void 79
Ratified January 25, 2008

²Article IV- 3,134 Members voted, Yes 2,654, No 480, Void 52
Ratified June 18, 2012

³Article V- 1,187 Members voted, Yes 798, No 389, Void 67
Ratified August 9, 2017

⁴Article V Section A- 1,768 Members voted, Yes 1,485, No 264, Void 19
Ratified December 4, 2014

⁵Article V Section A- 3,188 Members voted, Yes 2,639, No 470, Void 79
Ratified January 25, 2008

⁶Article V Section A- 1,776 Members voted, Yes 1,540, No 214, Void 22
Ratified December 4, 2014

⁷Article VI Section A- 1,924 Members voted, Yes 1,206, No 570, Void 11
Ratified September 10, 2013

⁸Article VI Section A- 2,298 Members voted, Yes 2,001, No 235, Void 24
Ratified April 4, 2011

⁹Article VI Section A- 2,955 Members voted, Yes 2,580, No 307, Void 68
Ratified July 2004

¹⁰Article VI- Section A- 1,215 Members voted, Yes 795, No 420
Ratified August 9, 2017

¹¹ Article VI Section A – 2,473 Members voted, Yes 2015, No 411, Void 47
Ratified January 28, 2016

¹²Article VI Section A- 2,637 Members voted, Yes 2,008, No 609, Void 20
Ratified February 2004

¹³Article VI Section A- 2,581 Members voted, Yes 2,131, No 398, Void 40, Late 12
Ratified July 28, 2008

¹⁴Article VI Section A- 2,725 Members voted, Yes 2,496, No 173, Void 56
Ratified April 13, 2010

¹⁵Article VI Section A- 2,012 Members voted, Yes 1,797, No 194, Void 21
Ratified March 1, 2010

¹⁶Article VI Section C- 1,974 Members voted, Yes 1,774, No 179, Void 21
Ratified Jan 04, 2007

¹⁷Article VI Section D- 2,421 Members voted, Yes 1,995, No 389, Void 37
Ratified March 01, 2012

¹⁸Article VI Section D- 1,870 Members voted, Yes 1,495, No 355, Void 20
Ratified August 13, 2014

¹⁹Article V- 1,187 Members voted, Yes 798, No 389, Void 67
Ratified August 9, 2017

²⁰Article VII Dues

Arbitration Eligible		Non-Arbitration Eligible	
08/11/1999	\$15.50	08/11/1999	\$15.50
10/01/1999 (3%)	\$15.96	10/01/1999 (3%)	\$15.96
04/01/2000 (3%)	\$16.43	04/01/2000 (3%)	\$16.43
04/01/2001 (3.5%)	\$17.00	04/01/2001 (3.5%)	\$17.00
04/01/2002 (3.5%)	\$17.59	04/01/2002 (3.5%)	\$17.59

04/01/2003 (2.25%)	\$17.98		
04/01/2004 (2.75%)	\$18.47	04/01/2004 (2.5%)	\$18.02
04/01/2005 (3%)	\$19.02	04/01/2005 (2.75%)	\$18.51
04/01/2006 (3%)	\$19.59	04/01/2006 (3%)	\$19.06
04/01/2007 (3%)	\$20.18	04/01/2007 (3%)	\$19.63
04/01/2008 (3%)	\$20.79	04/01/2008 (3%)	\$20.22
04/01/2009 (3%)	\$21.41	04/01/2009 (3%)	\$20.83
04/01/2010 (4%)	\$22.27	04/01/2010 (4%)	\$21.66
08/01/2012 (\$1)	\$23.27 *Legal Defense Fund	08/01/2012 (\$1)	\$22.66 *Legal Defense Fund
04/01/2014 (2%)	\$23.72	04/01/2014 (2%)	\$23.09
04/01/2015 (2%)	\$24.19	04/01/2015 (2%)	\$23.55
01/28/2016 (\$2)	\$26.19 *Rainy Day Fund	01/28/2016 (\$2)	\$25.55 *Rainy Day Fund

²¹ Article VII – 2,962 voted, Yes 2,340, No 622, Void 136

Ratified June 8, 2015

²² Article VII Section A- 3,168 Members voted, Yes 1,997, No 1,171, Void 51

Ratified June 18, 2012

²³ Article VII, Section A – 2,144 voted, Yes 1,697, No 447, Void 65

Ratified August 8, 2016

²⁴ Article VII Section B – 3,063 Members voted, Yes 2,020, No 999, Void 44

Ratified January 28, 2016

²⁵ Article IX Section A- 3,254 Members voted, Yes 2,461, No 793, Void 87

Ratified May 16, 2006

²⁶ Article IX Section A- 2,102 Members voted, Yes 1,604, No 359, Void 139

Ratified September 27, 2005

²⁷ Article IX Section B- 1,887 Members voted, Yes 1,519, No 224, Void 154

Ratified September 27, 2005

²⁸ Article IX Section F- 2,981 Members voted, Yes 2,137, No 794, Void 53

Ratified July 2004

²⁹ Article IX Section F- 527 Members voted, Yes 397, No 126, Void 4

Ratified June 2001

³⁰ Article IX Section F- 2,783 Members voted, Yes 2,190, No 376, mixed invalid 217

Ratified March 2, 2009

³¹ Article IX Section F - 1,851 Members voted, Yes 1,584, No 267, Void 65

Ratified August 8, 2016

³² Article V- 1,187 Members voted, Yes 798, No 389, Void 67

Ratified August 9, 2017

³³ Article X- 535 Members voted, Yes 393, No 132, Void 7

Ratified June 2001

³⁴ Article V- 1,187 Members voted, Yes 798, No 389, Void 67

Ratified August 9, 2017

³⁵ Article X Section A – 1,551 Members voted, Yes 1,327, No 167, Void 57

Ratified October 2015

³⁶ Article X Section B- 1,557 Members voted, Yes 1,336, No 164, Void 57

Ratified October 2015

³⁷ Article X Section C- 1,405 Members voted, Yes 1,285, No 78, Void 42

Ratified November 2004

³⁸Article X Section C- 2,814 Members voted, Yes 1,832, No 844, Void 138

Ratified December 19, 2005

³⁹Article X Section D- 2,682 Members voted, Yes 2,013, No 646, Void 23

Ratified February 2004

⁴⁰Article X Section E- 2,233 Members voted, Yes 1,833, 358 No, Void 42

Ratified November 13, 2009

⁴¹Article XI (10)- 3358 Members voted, Yes 2,785, No 573, Void 68

Ratified May 16, 2006

⁴²Article XI- Section B- 1,215 Members voted, Yes 795, No 420

Ratified August 9, 2017

⁴³Article XI Section B- 3,187 Members voted, Yes 2,826, No 283, Void 78

Ratified January 25, 2008

⁴⁴Article XI Section B- 3,120 Members voted, Yes 2,796, No 264, Void 60

Ratified April 13, 2010

⁴⁵Article XI Section C- 1,938 Members voted, Yes 1,535, No 367, Void 36

Ratified March 27, 2008

⁴⁶Article XI Section C- 2,167 Members voted Yes 1,832, No 270, Void 65

Ratified August 10, 2009

⁴⁷Article XI Section C- 508 Members voted, Yes 372, No 130, Void 6

Ratified June 2003

⁴⁸ Article XI Section C – 2,671 Members voted, Yes 2,006, No 618, Void 47

Ratified January 28, 2016

⁴⁹Article XI Section D- 2,092 Members voted, Yes 1,595, No 357, Void 146

Ratified September 27, 2005

⁵⁰Article XI Section F- 1,403 Members voted, Yes 1,096, No 261, Void 46

Ratified November 2004

⁵¹Article XII All Sections, rewrite- 1622 Members voted, Yes 1,389, No 208, Void 25

Ratified February 13, 2015

⁵²Article XIII Section B- 1,406 Members voted, Yes 1,177, No 195, Void 34

Ratified November 2004

⁵³Article XIV Section B- 2,727 Members voted, Yes 2,100, No 575, Void 52

Ratified February 2004

⁵⁴Article XIV Section B- 3,101 Members voted, Yes 2,798, No 252, Void 51

Ratified April 13, 2010

⁵⁵Article XV- 2,240 Members voted, Yes 1,773, No 421, Void 46

Ratified November 14, 2011

⁵⁶Article XV- 1,795 Members voted, Yes 1,593, No 175, Void 27

Ratified November 3, 2006

⁵⁷Article XV- 1,998 Members voted, Yes 1,671, No 279, Void 148

Ratified September 27, 2005

⁵⁸Article XVI Section C (10)- 1,433 Members voted, Yes 1,296, No 90, Void 47

Ratified November 2004

⁵⁹Article XVI Section C (11)- 3,290 Members voted, Yes 3,059, No 231, Void 73

Ratified May 16, 2006

⁶⁰Article XVI Section C (12)- 3,248 Members voted, Yes 2,971, No 277, Void 83

Ratified May 16, 2006

⁶¹Article XVI Section D- 1,374 Members voted, Yes 1180, No 140, Void 54
Ratified November 2004

⁶²Article XVI Section D (7)- 3,291 Members voted, Yes 3,059, No 104, Void 128
Ratified December 19, 2005

⁶³Article XXV Section C- 2,294 Members voted, Yes 1,928, No 299, Void 67
Ratified November 13, 2009

RESOLUTION

WHEREAS, the Parliamentarian has offered his opinion that motions to be considered by the Executive Assembly must first have been listed and included with the agenda that is distributed to members at least fourteen (14) days in advance of the meeting; and

WHEREAS, by long-standing practice, the Executive Assembly has had the ability to consider, vote on and implement motions proposed under new business, without such motions having been included with the agenda of the meeting; and

WHEREAS, the Executive Assembly is authorized by Article X, Section D of the Constitution and Bylaws to interpret the Constitution and Bylaws and all controversies arising thereunder, and

WHEREAS, The Executive Assembly deems that an interpretation of Article X, Section C of the Constitution and Bylaws is necessary to clarify and establish the meaning of that provision with respect to the question of whether motions may be made and acted upon on the floor of the Executive Assembly without first having been included with the agenda distributed to members in advance of the meeting; now, therefore

BE IT RESOLVED, that the Executive Assembly hereby interprets the provision of Article X, Section C of the Constitution and Bylaws that a “detailed agenda” be issued at least fourteen days in advance of an Executive Assembly meeting to mean that individual motions need not be included with the agenda sent to all members in advance of an Executive Assembly meeting before being proposed and acted upon at such meeting, so long as the agenda includes therein a provision or reference for “new business”.

Submitted by: Al Brown
Seconded by: D.W. Tucker

Motion **Passed**/Defeated: Yes 50 No 24 Abstain 2

DATE: April 21, 2005



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



NYSCOPBA Confidentiality Policy

Applicability. This policy is intended to apply to all NYSCOPBA elected and non-elected officers and officials, employees, staff, members on union leave, and vendors and other third parties with access to NYSCOPBA “member information” as described below.

Statement of Background and Intent. NYSCOPBA is a membership organization that provides numerous services to its members in a multitude of ways. Necessarily, in order to provide these services, and sometimes in the course of providing them, NYSCOPBA collects and maintains certain information concerning its members, in either written or electronic form. This information, referred to as “member information,” is often personal in nature, such as a member’s home address, telephone number, social security number, e-mail address, family information, or health and insurance enrollment data. NYSCOPBA believes that member information should be kept confidential.

This means that member information should only be shared with, or utilized by, NYSCOPBA officers and officials, employees, staff, members on union leave, and vendors and other third parties when such use or sharing furthers the legitimate business and interests of NYSCOPBA or the individual interests of the members whose information is being used or shared.

Member information should be shared with the employing agency or other relevant State agency (i.e. Civil Service, NYS Retirement System, Comptroller, etc.) only to the extent necessary to the collective bargaining relationship or to otherwise address or resolve the member’s grievance or other expressed interest.

Other than as noted above, member information should not be shared with or used by anyone inside or outside NYSCOPBA unless affected members agree or where required by law.

Maintaining the confidentiality of member information best serves NYSCOPBA members’ interests by ensuring that their information is not disseminated to individuals or entities that are hostile to them or to NYSCOPBA.

Maintaining the confidentiality of member information also encourages members to participate in NYSCOPBA's activities and to seek NYSCOPBA's assistance without fear of unwarranted disclosure of personal information.

Prohibited Activity. No person or entity subject to this policy shall share or utilize NYSCOPBA member information except in furtherance of the legitimate business and interests of NYSCOPBA or the individual interests of the members whose information is being used or shared, except with the consent of affected members or as required by law.

Compliance. The Executive Board shall disseminate and enforce this policy by such means as it shall deem appropriate, including but not limited to written notices, employment agreements, negotiated clauses and other mechanisms designed to ensure compliance.

Acknowledgment

I certify by my signature below that I have read the foregoing Confidentiality Policy and understand its provisions.

(Print Name)

Signature

Date: _____

WHISTLEBLOWER POLICY

NEW YORK STATE CORRECTIONAL OFFICERS & POLICE BENEVOLENT ASSOCIATION, INC.

ARTICLE I

Introduction and Purpose. The New York State Correctional Officers and Police Benevolent Association, Inc. (“NYSCOPBA”) requires its directors, officers and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. The purpose of this policy is to encourage and enable employees and members of NYSCOPBA to report any action or suspected action taken within NYSCOPBA that is illegal, fraudulent or in violation of any adopted policy of NYSCOPBA to a source within NYSCOPBA before turning to outside parties for resolution. This policy applies to any matter which is related to NYSCOPBA’s business and does not relate to private acts of an individual not connected to the business of NYSCOPBA. This policy is intended to supplement but not replace any applicable state and federal laws governing whistleblowing applicable to non-profit organizations.

ARTICLE II

Violations and Reporting in Good Faith. All employees and members of NYSCOPBA are encouraged to report any action or suspected action taken within NYSCOPBA that is illegal, fraudulent or in Violation of any adopted policy of NYSCOPBA (each, “Violation”). Anyone reporting a Violation, must act in good faith, without malice to

NYSCOPBA or any individual in NYSCOPBA, and have reasonable grounds for believing that the information shared in the report indicates that a Violation has occurred.

ARTICLE III

No Retaliation. No employee or member who in good faith reports a Violation or cooperates in the investigation of a Violation shall suffer harassment, retaliation or adverse employment consequences. Any individual within NYSCOPBA who retaliates against another individual who in good faith has reported a Violation or has cooperated in the investigation of a Violation is subject to discipline.

If an individual believes that someone who has made a report of a Violation or who has cooperated in the investigation of a Violation is suffering from harassment, retaliation or other adverse employment consequences, the individual should contact the Compliance Officer.

Any individual who reasonably believes he or she has been retaliated against in Violation of this policy shall follow the same procedure as for filing a complaint.

ARTICLE IV

Reporting Process. If an individual reasonably believes that a Violation has occurred, the individual is encouraged to share his or her questions, concerns, suggestions or complaints with any person within NYSCOPBA who may be able to address them properly.

In most cases, the direct supervisor of an individual is the person best suited to address a concern. However, if an individual is not comfortable speaking with his or her supervisor, or if he or she is not satisfied with the supervisor's response, the individual is encouraged to speak

directly to the Compliance Officer, who is NYSCOPBA's Executive Vice President, or anyone in management he or she feels comfortable approaching.

ARTICLE V

Confidentiality. NYSCOPBA encourages anyone reporting a Violation to identify himself or herself when making a report in order to facilitate the investigation of the Violation. However, reports may be submitted on a confidential basis by the complainant or may be submitted anonymously by filling out a reporting form and forwarding the form to NYSCOPBA's main office. Reports of Violations or suspected Violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation, to comply with all applicable laws, and to cooperate with law enforcement authorities. Furthermore, NYSCOPBA will explore anonymous allegations to the extent possible, but will weigh the prudence of continuing such investigations against the likelihood of confirming the alleged facts or circumstances from attributable sources.

ARTICLE VI

Compliance Officer: Handling Reported Violations. The supervisor, manager or board member who receives a report of a Violation from the complainant is required to notify the Compliance Officer of that report, except as provided below with respect to a report relating to the Compliance Officer. The Compliance Officer will notify the complainant and acknowledge receipt of a report of Violation within ten (10) business days, but only to the extent that the complainant's identity is disclosed or a return address is provided. The Compliance Officer shall notify the Executive Board of all reported Violations.

The Compliance Officer, or his or her designee, is responsible for promptly investigating all reported Violations and for causing appropriate corrective action to be taken if warranted by the investigation. The complainant will be notified about what actions will be taken, to the extent reasonably possible, and consistent with any privacy or confidentiality limitations. If no further action or investigation is to follow, an explanation for the decision will be given to the complainant.

In the event that the Compliance Officer is suspected of committing a Violation, then the Violation will be reported to the President and the Violation will be investigated by the President under close supervision of the Executive Board.

Compliance Officer:

Tammy Sawchuk, Executive Vice President
New York State Correctional Officers and
Police Benevolent Association, Inc.,
102 Hackett Blvd.
Albany, NY 12209
(#518-427-1551).

ARTICLE VII

Accounting and Auditing Matters: Reports. The Finance Committee is responsible for addressing all reported concerns or complaints of Violations relating to corporate accounting practices, internal controls or auditing. Therefore, the Compliance Officer must immediately notify the Finance Committee of any such concerns or complaints.

In addition, the Compliance Officer will advise the Executive Board of any reported Violations, the current status of the investigation, and the outcome or corrective action taken at the conclusion of the investigation.

ADOPTED BY THE EXECUTIVE ASSEMBLY AT ITS MEETING ON THE _____ DAY OF _____, 2014.

A copy of this Policy shall be distributed to all Executive Board members, officers, employees and members of NYSCOPBA who provide substantial services to NYSCOPBA.

My signature below indicates my receipt and understanding of this policy. I also verify that I have been provided with the opportunity to ask questions about the policy.

Dated: _____, 2014

[Signature]

[Print Name]

AMENDED CONFLICT OF INTEREST POLICY

ARTICLE I

Purpose: The purpose of the Conflict of Interest Policy is to protect the interests of the New York State Correctional Officers and Police Benevolent Association, Inc. (“NYSCOPBA”), when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a member of the Executive Board or Executive Assembly of NYSCOPBA. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to non-profit and charitable organizations.

ARTICLE II

Definitions:

1. **Interested Person.** Any director, principal officer, including members of the Executive Board and Executive Assembly, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person and has a potential conflict of interest.

2. **Financial Interests.** A person has a financial interest if the person has, directly or indirectly, through business, investment or family:

- a. An ownership or investment interest in any entity with which NYSCOPBA has a transaction or arrangement;
- b. Any compensation arrangement with NYSCOPBA or any entity or individual with which NYSCOPBA has a transaction or arrangement; or

- c. A potential ownership or investment in, or compensation arrangement with, any entity or individual with which NYSCOPBA is negotiating a transaction or arrangement.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest has a conflict of interest only if the appropriate governing board decides that a conflict of interest exists.

3. Conflict of Interest. The term “Conflict of Interest” means a conflict, or the appearance of a conflict, between the private interests and official responsibilities of a person in a position of trust. It encompasses that which could cast doubt on such a person’s ability to act with objectivity with regard to the interests of NYSCOPBA. Acting with objectivity pertains to actions which could influence the use of NYSCOPBA’s resources toward personal or family gain or gain by a business or organization with which the member or his/her family is affiliated.

The following matters shall not constitute “conflicts of interest” for purposes of this policy: fixing the compensation of directors or officers; establishing, amending or modifying Association policies governing travel and expense reimbursement.

ARTICLE III

Procedures:

1. Duty to Disclose. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Executive Board, Executive Assembly and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the Executive Board, Executive Assembly or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board, Assembly or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest.

- a. An interested person may make a presentation at the Executive Board, Executive Assembly or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest. An interested person is prohibited from attempting to improperly influence, or from improperly influencing, the deliberations or voting on the matter giving rise to the possible conflict of interest.
- b. The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the governing board or committee shall determine whether NYSCOPBA can obtain, with reasonable efforts, a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing any conflict of interest, the Executive Board, Executive Assembly or committee shall determine by a majority vote of the disinterested members whether the transaction or arrangement is in NYSCOPBA's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy.

- a. If the Executive Board or committee has reasonable cause to believe a member has failed to disclose an actual or possible conflict of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

- b. If after hearing the member's response and making further investigation as warranted by the circumstances, the Executive Board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

ARTICLE IV

Records of Proceedings: The minutes of the Executive Board, Executive Assembly and all committees with board delegated powers shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Executive Board's, Executive Assembly's or committee's decision as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to their proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

ARTICLE V

Annual Statements: Each director, principal officer, including members of the Executive Board, Executive Assembly and members of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a. Has received a copy of the conflicts of interest policy;
- b. Has read and understands the policy;
- c. Has agreed to comply with the policy; and
- d. Understands NYSCOPBA is non-profit and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax exempt purposes.

ARTICLE VI

Periodic Reviews. To insure that NYSCOPBA operates in a manner consistent with non-profit purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and result of arms-length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management, organizations conform to NYSCOPBA's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further non-profit purposes and do not result in inurement and impermissible private benefits.

ARTICLE VII

Use of Outside Experts. When conducting the periodic reviews as provided in Article VII, NYSCOPBA may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

ARTICLE VIII

Written Statement of Potential Conflicts. Prior to the initial election of any director, including members of the Executive Board and Executive Assembly, and annually thereafter, such director shall complete, sign and submit to the Secretary of NYSCOPBA a written statement identifying to the best of the director's knowledge, any entity of which such director is an officer, director, trustee, member, owner (either as a sole proprietor or partner), or employee and with which NYSCOPBA has a relationship, and any transaction in which NYSCOPBA is a participant and in which the director might have a conflict of interest. Each director shall annually resubmit such written statement. NYSCOPBA's Secretary shall provide a copy of all completed statements to the Chair of the Finance Committee and to the President.

STATEMENT REQUIRED BY NYSCOPBA CONFLICT OF INTEREST POLICY

The undersigned member of the Executive Board or Executive Assembly hereby states that he/she:

- a. Has received a copy of the conflicts of interest policy;
- b. Has read and understands the policy;
- c. Has agreed to comply with the policy; and
- d. Understands NYSCOPBA is non-profit and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax exempt purposes.

To the best of my knowledge, set forth below are all entities of which I am an officer, director, trustee, member, owner (either as a sole proprietor or partner), or employee and with which NYSCOPBA has a relationship, and any transaction in which NYSCOPBA is a participant, and in which I might have a conflict of interest:

Dated: _____ Signed: _____

[Print Name]

NYSCOPBA's Judicial/Ethics Panel
Policy and Procedures

Preamble:

The purpose of NYSCOPBA's Judicial/Ethics Panel Policy and Procedures is to resolve charges promptly, fairly and in the interest of the membership.

PARAGRAPH 1: FILING OF CHARGES

Except as provided in this article, any member of NYSCOPBA may file charges against any officer or member of NYSCOPBA for acts or omissions as hereinafter described in Paragraph 2; such charges must be filed within sixty (60) days of the date upon which an act or omission occurred or when the accusing member first knew or reasonably should have known the alleged act or omission.

PARAGRAPH 2: BASIS FOR FILING CHARGES

The following shall constitute basis for the filing of charges:

- A) violation of any provision of the Constitution and Bylaws of NYSCOPBA;
- B) misappropriation, embezzlement, or improper or illegal use of NYSCOPBA funds;
- C) dual unionism or sedition (activity which assists or is intended to assist competing employee organizations);
- D) instituting or urging others to institute legal action against NYSCOPBA or any officer, employee thereof without first exhausting all internal remedies within NYSCOPBA, provided that this shall not apply where the action was instituted in order to prevent the loss of rights under an applicable statute of limitations and the member has diligently pursued his or her internal remedies;
- E) using the name or assets (including mailing lists) or goodwill of NYSCOPBA in an unauthorized manner;
- F) deliberately interfering with any official of NYSCOPBA in the discharge of his or her lawful duties;
- G) conviction of a crime, the nature of which is such to bring NYSCOPBA as an organization into disrepute;
- H) knowingly submitting any false financial report or statement;
- I) acting in a manner such as to harm substantially the interests of NYSCOPBA;

- J) malicious prosecution or the bringing of charges which are frivolous in nature; and
- K) engaging in corrupt or unethical practices by taking or improperly retaining any money, books, records, or other property belonging to NYSCOPBA. The unauthorized destruction, alteration, or mutilation of records, vouchers, or receipts shall also constitute a violation of this code.
- L) While acting in one's official capacity, demonstrating a persistent pattern of treating other members with such a degree of disdain, disrespect and lack of professionalism as to undermine the promotion of the welfare of bargaining unit members.

PARAGRAPH 3: CONTENTS OF THE JUDICIAL/ETHICS COMPLAINT CHARGES

Charges shall be in writing on a form created by the Judicial/Ethics Committee and shall be signed by the member or members bringing the charge. The charges shall state specific section(s) of Paragraph 2 above alleged to have been violated, and specific facts underlying the charge.

In setting forth the specific facts underlying the charges, the charging person(s) shall state in detail the date each act or omission is alleged to have occurred, and any witnesses to the acts or omissions charged.

The charges shall be accompanied by any corroborative evidence, including, but not limited to:

- [1] physical evidence
- [2] documentary evidence (i.e., correspondence, business records);
- [3] hand-written and dated declarations(s) (the writing of which is witnessed by a second person) corroborating the allegation(s) made by the charging party, based on the personal knowledge of the person making the declaration and signed under penalty of perjury.

All document(s)/declaration(s) shall contain specific facts and be relevant to the charges as referenced in Paragraph 2, A-L above.

The written charge must contain the name, address, title and work location of the charging party as well as the name, address, title and work location (if known) of the accused.

Charges may only be initiated by NYSCOPBA officers or members in good standing. The written charges must be legible and specific.

PARAGRAPH 4: FILING AND SERVING CHARGES

The charges shall be filed in duplicate by being personally delivered to, or mailed by registered or certified mail to the Secretary of NYSCOPBA or, if the Secretary is a party or witness, to the President.

The Secretary (or President) shall refer the case immediately to the Chair of the Judicial/Ethics Committee. The date of filing shall be the date of the postmark or the day of hand delivery to the Secretary as evidenced by a signed receipt.

The Secretary shall serve the respondent with a copy of the charges either personally or by registered or certified mail, directed to the last known address of the respondent. The respondent shall have twenty (20) days after receipt in which to respond. The date of response shall be the date of postmark or hand receipt. Reasonable extensions to respond may be granted by the Chair of the Judicial/Ethics Committee. Copies of all correspondence, to include the response of the accused, shall be forwarded to the Judicial/Ethics Committee for review and resolution. A copy of the respondent's reply will be sent to the charging party.

PARAGRAPH 5: ETHICS COMMITTEE

A. Initial Screening of Charges

Pursuant to the Constitution and Bylaws, the Judicial/Ethics Committee shall be elected by the Executive Assembly. A quorum, consisting of at least five (5) Judicial/Ethics Committee members, shall be required to consider and render a decision on charges; all decisions shall be made by majority vote. The committee will make every effort to meet within sixty (60) days of receipt of the grievance to review each case. If it is not possible to meet in person, the Judicial/Ethics Committee may conduct a meeting by teleconference. Additionally, if by majority vote it is found necessary, the committee may conduct interview(s) and request additional information from the parties. The committee may:

1. dismiss or deny the charges if the committee finds no substantial evidence of a constitutional or ethics code violation; or
2. sustain the charges and issue an ethics/judicial opinion to the parties defining their responsibilities under the Constitution or these procedures if violations are found to be of a minor or technical nature; or

3. refer the matter for a full hearing before the Committee, if it finds substantial evidence of a serious violation of the Constitution or Paragraph 2 of these rules.

Internal committee rules of decorum include a provision that impacted individuals not be allowed to attend committee meetings unless the matter is referred for a full hearing. Members should be informed of the status of their case after submission, as well as be told reasons for sustaining or dismissing the case. The Chair will prepare a summary of the case to be presented to the Executive Board to simplify understanding of issues.

All correspondence relative to the case will be made available to the parties. Committee members will not accept phone calls from litigants except to discuss procedures. The Chair will recuse committee members should a conflict of interest or the appearance of conflict of interest surface.

Charges of dual unionism or sedition shall be referred to the Judicial/Ethics Committee for immediate review. If the Committee finds substantial evidence of dual unionism or sedition by any elected union officer or official, that officer or official may be immediately suspended from Office and all official duties pending the hearing provided by this procedure. The suspended official shall be given prompt notice of the suspension and may present evidence to the Committee, at its next meeting, to demonstrate that the suspension is not warranted. The Committee, upon consideration of such evidence may, in its discretion, continue or revoke the suspension.ⁱ

PARAGRAPH 6: REFERRAL FOR A FULL HEARING

Cases referred for a full hearing pursuant to paragraph 5 (3) shall be heard by a quorum of the Committee selected by the Chair, who may also serve as a member of the hearing panel.

The parties may appear before the hearing panel in person and with witnesses to present and answer the charges. A full and fair hearing will be conducted, with the accuser and the accused afforded the right to question witnesses and examine any evidence presented by the charging party. Witnesses need not testify under oath. The accused may select another NSYCOPBA member to represent him or her in the presentation of a defense, however, no counsel may present a case. The accused may elect to present a defense in writing rather than personally appear. In the absence of a written or personal defense, the hearing shall still proceed.

PARAGRAPH 7: JUDGMENT OF THE HEARING PANEL

Upon completion of the hearing, the Hearing Panel shall vote on whether to sustain the charges in whole or in part. A majority vote of the Hearing Panel shall be required to sustain the charges. The Hearing Panel shall render its decision within thirty (30) calendar days at the end of the hearing. The Hearing Panel's decision shall include a summary of the evidence presented

and shall state the basis upon which the decision was made. The Hearing Panel's decision shall be mailed to the accused, the charging party, and to such other persons as may be deemed appropriate. If the charges are not sustained, they shall be dismissed.

If the charges, or any portion thereof, are sustained, the Hearing Panel shall render judgment and may impose discipline. Discipline may include:

- A. requirement that the guilty party or parties conform to the Constitution and Bylaws and the Judicial Ethics Procedures;
- B. command to do or perform or restrain from specific acts;
- C. reprimand;
- D. deprivation of NYSCOPBA privileges;
- E. removal from Office; or
- F. suspension or expulsion from NYSCOPBA.

PARAGRAPH 8: APPEALS TO EXECUTIVE BOARD

1. Decisions of Judicial/Ethics Committee pursuant to paragraph 5 (1) or (2) and paragraph 6 may be appealed to the Executive Board by any party to the charge. All appeals will be filed with the Secretary (or President if the Secretary is a party) within thirty (30) days of the mailing of a decision. The decision shall be mailed by registered or certified mail to the last known address as shown on NYSCOPBA's books or may be personally delivered to the party or parties and this shall constitute due notice. Reasonable extensions to appeal may be granted by a majority vote of NYSCOPBA's Executive Board.^{ii, iii}
2. The appeal must be received in duplicate by the Secretary (or President) of NYSCOPBA. The appeal shall contain a concise statement of the facts that the appellant feels warrants such an appeal.
3. The Executive Board, upon one-third (1/3) of those present and voting, shall hear the appeal at its next scheduled meeting, provided that the appellant postmarks the appeal within thirty (30) calendar days prior to the meeting.
4. In-person presentations to the Executive Board by the appellant or other parties to the grievance will require a majority of the vote of the Executive Board. Travel and other expenses to attend the appeal will not be provided by NYSCOPBA. There will be no

requirement on the part of NYSCOPBA's Executive Board to schedule hearings or appeals for the convenience of any of the litigants.

5. A majority vote is required to overturn any decision of the Ethics/Judicial Committee.
6. Board members party to the grievance will not be allowed to vote.
7. A decision by the Executive Board will be considered final unless the Executive Board votes to remand to the Ethics Committee for a full hearing under paragraph 6.

PARAGRAPH 9: FAILURE TO COMPLY

Failure by an elected officer to comply with the final judgment imposing discipline shall be considered an action detrimental to NYSCOPBA's interest and may lead to impeachment.

Failure by a member to comply with the decision of the Executive Board will be grounds for the Board to take further disciplinary action.

Judgment of the Judicial/Ethics Committee is final unless an aggrieved party appeals the decision to the Executive Board.

ⁱ Paragraph 5 amended to include last paragraph (dual unionism and sedition) Approved September 1, 2000

ⁱⁱ Paragraph 8 (1) amended ~~within sixty (60) days of the receipt of a decision.~~ Approved February 11, 2009

Paragraph 8 (1) amended to include ...within thirty (30) days of the mailing "or personal delivery of the decision. The decision shall be mailed by registered or certified mail to the last known address as shown on NYSCOPBA's books or may be personally delivered to the party or parties and this shall constitute due notice. Reasonable extensions to appeal may be granted by a majority vote of NYSCOPBA's Executive Board."



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Charging Party:

Accused Party:

Print Name _____

Print Name _____

Signature _____
Charging Party MUST sign form

Date _____

Address _____

Phone Number _____

Title _____

Work Location _____

Corroborating Witness Signature _____

Witness must attach a declaration or statement of facts.

BASIS FOR FILING CHARGE:

LIST SPECIFIC LETTER(S) (A-L) PARAGRAPH 2 OF THE JUDICIAL & ETHICS POLICY & PROCEDURE:

SPECIFIC FACTS RELEVANT TO THE CHARGE(S):

Except as provided in this article, any member of NYSCOPBA may file charges against any officer or member of NYSCOPBA for acts and or omissions as described in paragraph 2. Such charges **MUST BE FILED IN DUPLICATE WITHIN 60 DAYS** of the date upon which an act or omission allegedly occurred or when the accusing members first knew or reasonably should have known of the alleged act or omission. Any corroborative evidence per paragraph 3 shall accompany charges. (Please print or type.)

Status of File: (For Committee Use Only)

Paragraph 4: Filing and Serving Charges. Charges shall be filed in duplicate by being personally delivered to, or mailed by Registered or Certified mail to the Recording Secretary of NYSCOPBA. If the Recording Secretary is a party or witness, the charges shall be filed to the President. The respondent shall have 20 days after receipt in which to respond. (Please Print or Type.)

RESPONSE OF ACCUSED PARTY: _____

Accused Signature: _____ Date: _____

DECISION OF NYSCOPBA'S JUDICIAL & ETHICS COMMITTEE FILE# _____

Please be advised that the New York State Correctional Officers and Police Benevolent Association, Inc. Judicial & Ethics Committee reviewed your accusation, and, after careful consideration of the facts, has found:

1. _____

2. _____

3. _____

The purpose of the Judicial & Ethics Committee is to substantiate only those findings that a member violated paragraph 2. If you do not agree with the Committee's findings, you have the right to appeal the determination to the Executive Board. All appeals must be filed with the Recording Secretary (or President if the Secretary is a party), within 30 days of receipt of the decision (see paragraph 8).

Chair, Judicial & Ethics Committee

Signature

Date

Print

10/11/05

MOTION:

Any member who is expelled as a result of J & E proceedings who wishes to be re-instated shall request same of the NYSCOPBA Executive Board via certified mail to the recording secretary: Request shall include charges which resulted in expulsion and why the board should re-instate.

To be taken up at Executive Board meeting following receipt by the recording secretary. The Executive Board decision will be given to the member within 30 days.

Motion made by: John Telisky

Motion seconded by: Keith Zulko

Motion **passed** - Unanimously



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



NYSCOPBA COMPUTER POLICY

Access and use of computing and networking resources at NYSCOPBA are privileges extended to employees of NYSCOPBA. Access to NYSCOPBA's computing and networking resources is limited to authorized users and is for approved purposes only. "Approved purposes" is defined as only NYSCOPBA related purposes. "Authorized users" is defined as any member of NYSCOPBA or the NYSCOPBA Employee Association (NEA) who is issued a NYSCOPBA Computer Account. NYSCOPBA's computing resources include computer hardware and software, computer-based files and data, and all networks reached via NYSCOPBA's Officers such as the Internet. All equipment and software installed on NYSCOPBA's network is Property of NYSCOPBA and is only to be used for NYSCOPBA related work product. As such, all transmissions over NYSCOPBA's network whether originating or terminating within the NYSCOPBA network is monitored by Management. Any and all prohibited uses of the NYSCOPBA network will result in the loss of your account and/or disciplinary charges.

Each holder of a NYSCOPBA Network Account has the responsibility to use resources referred to above in an ethical and legal manner and agrees as to the following as a condition for use of the account:

1. Security measures are in place to protect the privacy of NYSCOPBA users. Any attempt to bypass these security measures, or to secure a higher level of access or privilege without appropriate authorization, is prohibited and will result in the loss of your account and/or disciplinary charges.
2. Use of another person's user ID, or applying for a false user ID, is prohibited and will result in the loss of your account and/or disciplinary charges.
3. Use of your user ID for commercial purposes is prohibited. You may not sell access to your user ID or perform work for profit in a manner not authorized by NYSCOPBA and will result in the loss of your account and/or disciplinary charges.
4. E-mail messages and files are not private and are considered the property of NYSCOPBA. The reading, deleting, or modifying of another user's e-mail or files without the owner's and/or administrator's permission is prohibited and will result in the loss of your account and/or disciplinary charges.
5. Offensive messages (e.g., messages with sexual, discriminatory, racial, or derogatory connotations) will not be permitted. Harassment in any form will not be tolerated and will result in the loss of your account and/or disciplinary charges.
6. Please refrain from sending excessively large quantities of e-mail: An excessively large quantity of mail may be defined as a small message sent to a very large number of users, a very large message sent to several users, or anywhere in between. Users who repeatedly do this, regardless of the method used (e.g., distribution lists, multiple distribution lists, individual mailings, etc.), will be considered in violation of e-mail policy and will result in the loss of your account and/or disciplinary charges, unless the NYSCOPBA President grants permission. This could significantly reduce response time or have undesired effects on NYSCOPBA's Computer Systems.
7. Sending unsolicited commercial or bulk e-mail, including advertisements, is prohibited and will result in the loss of your account and/or disciplinary charges.
8. Chain mail is prohibited and will result in the loss of your account and/or disciplinary charges. Chain mail is an e-mail message that requests the recipient to forward or send a copy of the message to multiple users.
9. You will be held responsible for all e-mail messages sent from your user ID. For this reason, forgery, or attempted forgery, of the "From" line in an e-mail message is prohibited. Masking the identity of an account and/or electronic identification address is prohibited and will result in the loss of your account and/or disciplinary charges.
10. NYSCOPBA's Computer Systems cannot be used to upload (send) copyrighted materials, trade secrets, proprietary financial information, or similar materials without appropriate prior authorization of the NYSCOPBA President.

SEXUAL HARASSMENT POLICY

It is the policy of NYSCOPBA to comply with federal and state laws which prohibit sexual harassment and to maintain an employment atmosphere free of sexual harassment, intimidation or coercion. Sexual harassment of any kind will be grounds for immediate and appropriate disciplinary action up to and including dismissal.

NYSCOPBA prohibits sexual harassment of any employee. All employees and non-employees¹ of NYSCOPBA must, therefore, avoid offensive or inappropriate sexual behavior at work and are responsible for assuring that the workplace is free from sexual harassment at all times.

WHAT IS HARASSMENT?

Sexual harassment can take many forms. It may be, but is not limited to, words, signs, jokes, pranks, intimidation or physical contact.

Any verbal or behavior may constitute as harassment when:

1. Submission to such behavior is made, either explicitly or implicitly, a term or condition of employment.
2. Submission to or rejection of such behavior by an individual is used as a basis for employment decisions affecting the individual.

¹ Non-employees are defined as individuals who are utilized by NYSCOPBA for specific projects and are not in a paid status, e.g., Judicial Ethics Committee, Finance Committee, Collective Bargaining Committee, Health and Welfare Committee, Grievance Committee, Legal Assistance Committee, Legislative Political Action Committee, Election Committee, Publicity and Meetings Committee, Constitution and By-Laws Committee, Chief Section Stewards, Stewards, etc.

3. Such behavior includes deliberate, repeated, unsolicited and unwelcome verbal comments, gestures or physical acts of a sexual nature.
4. Such behavior has the purpose or effect of interfering with an individual's performance or creating an intimidating, hostile or offensive work environment.

EXAMPLES:

The following kinds of conduct may constitute sexual harassment:

1. Unwelcome sexual advances.
2. Request for sexual acts or favors with or without accompanying promises, threats, reciprocal favors or actions.
3. Other verbal conduct of a sexual nature made to an employee when submission to such conduct is made whether explicitly or implicitly a condition of an individual's employment or when submission to or rejection of such conduct has the purpose or effect of substantially interfering with an individual's work performance.
4. Use of any offensive or demeaning terms which have sexual connotations including off-color language or jokes of a sexual nature; slurs and other verbal, graphic or physical conduct relating to an individual's gender.
5. Persistent and unwelcome remarks about another's clothing or body.
6. Unwelcome and repeated invitations to social engagements.
7. Unwelcome touching or pinching.
8. Any action relating to an employee's job status which is in fact affected by consideration of his/her sex or the granting or refusal of social or sexual favors.

9. Display of sexually explicit pictures, greeting cards, articles, books, magazines, photos or cartoons.
10. Deliberate or careless creation of an intimidating, hostile or offensive atmosphere by sexual innuendo, comment or action.

COMPLAINTS:

An employee who feels that he/she is being sexually harassed or believes that he/she has witnessed sexual harassment, can make an oral or written complaint to his/her immediate supervisor. If the employee is uncomfortable about presenting the complaint to his/her immediate supervisor or if the immediate supervisor's conduct is cause for complaint, the employee may make the complaint to the office manager or a member of NYSCOPBA's Executive Board (President, Executive Vice President, Secretary, Treasurer or Vice President) (hereinafter "Executive Board") of NYSCOPBA. Any employee who has a complaint of sexual harassment at work by anyone, including co-workers or visitors, is urged to bring the matter to the attention of his/her supervisor so that NYSCOPBA may investigate and address the problem. In addition, it is a supervisor's duty to report incidents of sexual harassment of NYSCOPBA employees to the office manager or member of the Executive Board of NYSCOPBA.

INVESTIGATION AND DISCIPLINARY ACTION:

All reports of sexual harassment will be promptly investigated with as much confidentiality as possible, consistent with a thorough investigation. Allegations of sexual harassment shall be fully investigated by a union official and/or committee appointed by the President. If the President's conduct is the cause of complaint, then the Executive Vice President shall make the appointment.

It is the responsibility of the investigator and/or committee to investigate the matter expeditiously, properly and thoroughly. Should the investigation result in a finding that harassment occurred, NYSCOPBA will take steps necessary to end the harassment and take appropriate disciplinary action against the offender. This may range from a reprimand to dismissal, or removal from a standing committee. The corrective action should reflect the severity of the conduct.

Disciplinary action up to and including dismissal from employment may be taken as warranted. No retaliation of any kind will be taken against any employee who reports in good faith alleged sexual harassment.



New York State Correctional Officers & Police Benevolent Association, Inc.

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POLICY FOR RECOVERING FUNDS AND PROPERTY FROM NYSCOPBA MEMBERS AND OFFICIALS 10/11/2005

Sector Level:

- 1.) The Regional V.P. or his designee should verbally request the return of the property and/or money involved from the member/official. If this does not resolve the issue then see 2 below and then advise Executive Vice President and Treasurer.
- 2.) The Regional V.P. or his designee should make a written request for the return of the property and/or money involved. If this does not resolve the issue see Association Level I below and then advise Executive Vice President and Treasurer.

Association Level:

- 1) The Regional V.P. or his designee should notify the Executive Vice President and Treasurer of the situation in writing and include all correspondence from the member/official who is holding the property and/or money at issue. If the Treasurer deems the member/official is entitled to the property and/or money the issue will be considered resolved and the sector will be treated appropriately.
- 2) If the Treasurer does not deem it appropriate for the member/official to maintain possession of the property and/or money the Treasurer will notify the Regional V.P. (with copy to the member). The member will have 30 days to return the property and/or money or appeal the decision to the Executive Board.
- 3) If the member/official fails to act or the Executive Board denies the approval made by the member/official, the following will occur:
 - a. The Treasurer will send the member/official involved a certified letter requesting the return of the property and/or money involved and justification for the delay or denial of the return of the property and/or money involved.
 - i. The Treasurer will deduct the appropriate amount from future mileage and or per diem payments.
 - b. The value of the property or the amount of money held by the member/official will be deducted from future reimbursements made to the member/official.
 - c. Should the member/official refuse to return the property and/or money involved and deductions cannot be made from future reimbursements he/she will be advised that he/she could be petitioned into Small Claims Court and/or subjected to Judicial and Ethics charges.

* Adopted Unanimously at Executive Assembly 12-8-05



New York State Correctional Officers & Police Benevolent Association

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Grievance/Legal Assistance Committee

GRIEVANCE REVIEW POLICY

(As adopted December 12, 2007)

1. **STATEMENT OF POLICY:** Article 7 "*Grievance and Arbitration*" of the collective bargaining agreement provides that NYSCOPBA may take an appeal of a grievance that is not satisfactorily resolved. It shall be the policy of the New York State Correctional Officers & Police Benevolent Association, Inc. ("NYSCOPBA") that the determination to take any such appeal shall be made in accordance with the procedures described herein.
2. **INITIATION OF GRIEVANCES:** NYSCOPBA, or a person or persons represented by NYSCOPBA ("grievant") may submit a grievance to Step 1 as provided by Article 7 of the collective bargaining agreement.
3. **GRIEVANCES NOT SATISFACTORILY RESOLVED:** A determination by NYSCOPBA that it is not in the best interest of NYSCOPBA to appeal a grievance to the next step in the grievance process is subject to review only as provided by this policy and the procedures specified herein.
4. **REQUEST FOR REVIEW OF A DECISION OF NYSCOPBA:** If NYSCOPBA determines that a grievance not satisfactorily resolved at Steps 1 or 2 will not be appealed to the next step of the grievance procedure, the grievant or the Sector Steward representing said grievant may request a review of this determination by the Grievance/Legal Assistance Committee established pursuant to Article XI of the NYSCOPBA Constitution. The procedure for this review shall be as follows:
 - a. The grievant will be notified by NYSCOPBA in writing of this determination. A copy of this notice shall also be provided to the Vice-President and the Chief Sector Steward representing the grievant.

Members of the Committee:

Wilson Chapman (Great Meadow CF); Robert Cronin (Mt. McGregor CF); Dave Fletcher (Franklin CF);
Jeff Levy (Division of Parole); Hugh Ricenburg (Downstate CF); Don VanTassell (Fishkill CF)

Committee Chair:

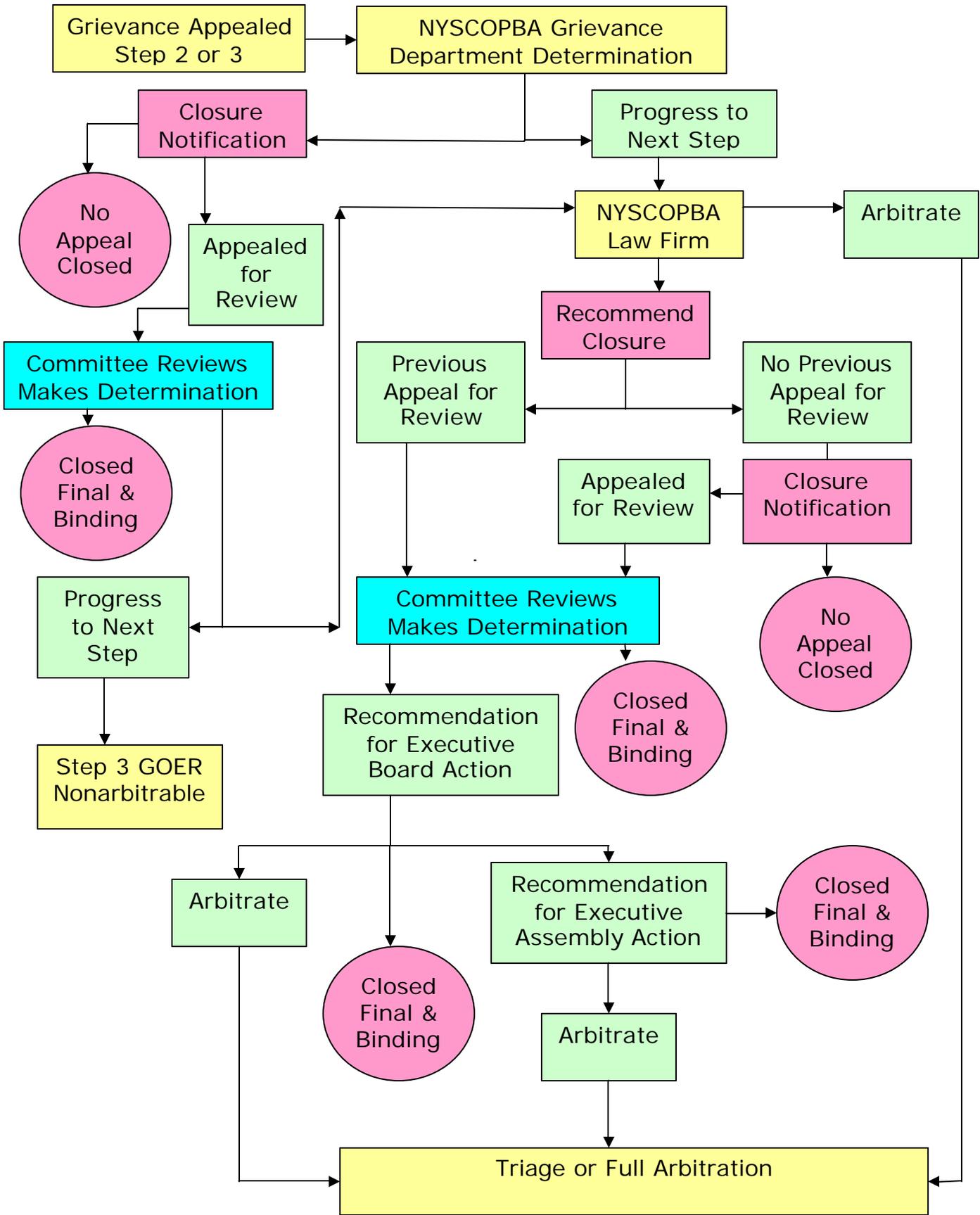
Kevin Walker (Mid-Hudson Vice President)

- b. The notice to the grievant shall include the reasons why NYSCOPBA determined that the grievance should not be appealed to the next step. This notice may include any information, which supports the decision of NYSCOPBA including past grievance decisions, arbitration decisions, etc.
 - c. The notice to the grievant shall state, "In the event you do not agree with this determination to close this grievance, you may request in writing that this determination be reviewed by the Grievance/Legal Assistance Committee. This request must be made within thirty (30) days following receipt of this notice. Your request for review must include specific relevant additional information that NYSCOPBA did not possess that might have affected the determination to close the grievance. The request for review by the Grievance/Legal Assistance Committee should be sent by email to grievance@nyscopba.org or mailed to 'NYSCOPBA Grievance Department, 102 Hackett Blvd., Albany, NY 12209-1543.' If a written request for review is not received within thirty (30) days, the grievance will be closed."
 - d. The Grievance Department will forward a request for review to the Grievance/Legal Assistance Committee. The committee will review the written submission, and may call witnesses, may consult with legal counsel and/or request additional information from any person possessing information believed to be relevant. NYSCOPBA shall notify the grievant of the date and time when the committee will consider their request for a review. The grievant may participate via a telephone conference call or may appear in person at his or her expense. Their Sector Steward or Vice-President may represent the grievant in this review. In the event a good faith effort has been made to contact the grievant and the grievant cannot be contacted, the Grievance/Legal Assistance Committee may go forward with the review and render a decision thereon.
 - e. The Grievance/Legal Assistance Committee will render a decision within thirty (30) days after the review is considered. The Grievance/Legal Assistance Committee will notify the grievant in writing that either the grievance will be closed or that the grievance will be appealed to the next step. The decision of the Grievance/Legal Assistance Committee will be final and binding and cannot be appealed.
5. GRIEVANCES NOT SATISFACTORILY RESOLVED AT STEP 3: If NYSCOPBA or Legal Counsel designated pursuant to Article XIX of the NYSCOPBA Constitution and Bylaws determines that it is not in

the best interest of NYSCOPBA to pursue a grievance beyond Step 3, the following shall occur:

- a. Only when the Grievance/Legal Assistance Committee has not previously reviewed the grievance as described in section 4 of this policy, the grievant, the Sector Steward and the Vice-President representing the grievant will be provided the opportunity for such review as provided by section 4(a) to section 4(d).
- b. If the Grievance/Legal Assistance Committee agrees with the determination that it is not in the best interest of NYSCOPBA to pursue the grievance beyond Step 3, the grievance will then be closed. This decision will be final and binding and cannot be appealed.
- c. If the Grievance/Legal Assistance Committee does not agree with the determination that it is not in the best interest of NYSCOPBA to appeal the grievance beyond Step 3, the grievance will be submitted to the Executive Board.
- d. The Executive Board shall then decide that the grievance will be pursued beyond Step 3, or the grievance will be closed, or the grievance will be referred to the Executive Assembly. This decision of the Executive Board will be final and binding and cannot be appealed.
- e. The decision of the Executive Board, or of the Executive Assembly if the grievance is referred to them by the Executive Board, that the grievance will be pursued beyond Step 3 or that the grievance will be closed will be final and binding and cannot be appealed.

**Grievance Review Policy & Procedure
Adopted by NYSCOPBA EA 12-12-07**



Grievance Procedure Summary: under Article 7 in the contract.

STEP I

1. Grievant files a grievance within 20 calendar days of occurrence.
2. Grievant, Union and local management meet within 10 calendar days.
3. Local management issues a written decision within 10 calendar days.

STEP II

(From this point forward the Union owns the grievance)

1. Union files appeal to DOCS Labor Relations within 15 days.
2. Meeting with Labor Relations and Union within 10 days.
3. Labor Relations issues decision within 10 days.
4. NYSCOPBA evaluates whether or not to forward grievance to next step (see Grievance Appeal Procedure). NYSCOPBA may appeal Step II decision to Governor's Office of Employee Relations within 15 days. (* 15 day window extended to 60 days per MOU with GOER)

STEP III

1. Step III review scheduled every other week at GOER office (Member receives scheduling letter explaining review procedure. Member may participate by phone, upon request to grievance department)
2. On-site review- (very rare) Meeting at worksite with Union, Management and GOER, usually within 4 months.
3. Health and safety issues may be referred to Health and Safety Committee for review.
4. Out of Title grievances referred to Civil Service Classification and Compensation for review.

5. GOER issues decision or recommends resolution.(No set time frame)
6. NYSCOPBA evaluates whether or not to forward grievance to next step (see Grievance Appeal Procedure). NYSCOPBA may appeal Step III decision to Step IV within 15 days. (* 15 day window extended to 60 days per MOU with GOER

STEP IV

1. Appeal to Alternate Dispute Resolution Process or Arbitration may take several paths:
 - a. **Triage** - Discussion between NYSCOPBA and State legal counsel (resolution conference) to determine if grievance can be resolved or if it can be best addressed through Expedited or Full Arbitration.
 - b. **Expedited Arbitration** – NYSCOPBA and State legal counsel present verbal case summaries (no written briefs) before a Master Arbitrator. Arbitrator renders decision, usually within 7 days. **Expedited Awards are non-precedential unless the parties agree otherwise.**
 - c. **Full Arbitration** – NYSCOPBA and State legal counsel present verbal and written testimony, including written briefs, before a mutually agreed to Arbitrator. Decision is usually issued within 30 days. **Full Arbitration awards are precedential unless otherwise agreed to by the parties or expressly indicated by the arbitrator.**

Guidelines for Investigating and Writing Grievances

The hallmark of the competent Law Enforcement Officer is the ability to record his or her statement of events in a clean, concise and readily understandable manner. This skill should be employed when writing grievances as well. Grievance reports are the spark that fires the other components of the grievance process into action. It invokes due process of the contract and all New York State laws. Accordingly, it should not be approached in a lax or haphazard manner.

The grievance report should be professional, clear, concise and perfectly understandable. Consequently, when you sign your name on the bottom of your grievance, you tell every person who reads it the type of person you are and the type of organization you represent. An incoherent grievance leaves the reader wondering, "What is he/she trying to tell me?".

Confused, vague or ambiguous grievances result from a failure to think through the facts and circumstances, which will ultimately make up the body of your grievance. The desired result will be lost if you cannot or will not take the time to document the grievance in a way that is clear and understandable.

Think through each portion of your grievance from beginning to end....then write. This will eliminate the need for future "translation". Strive for coherence. "Coherence" is the quality of logic and order. If the grievance lacks a logical sequence... if the events are recorded out of logical order... the reader will have the difficult, if not impossible, chore of figuring out what actually took place.

The practice of outlining a grievance before writing it invariably strengthens your report writing. It is a way to organize the information in your possession before beginning to write. You will get results by putting effort into your report and back it up with documentation: directives, contracts, NY State laws, etc. Explain how they have been violated.

Subjective writing expresses the writer's personal feelings or emotions, opinions, biases or prejudices, and does so generally without regard to verifiable facts, contractual arguments (contract) and evidence.

Objective writing records the facts and circumstances without reference to the writers personal feelings concerning the event, without emotion, and most importantly, without any implication of bias or prejudice.

Each paragraph should be limited to one idea. That central statement should either be elaborated in the beginning of the paragraph, if not the first sentence itself. Clarity and unity of thought is then achieved by relating all other details of the paragraph to the central statement.

These are the questions to ask yourself about your grievance report:

"Does this make sense? Does it report what actually happened? Is it coherent? Will someone else understand this? Does this report adequately or recreate the scene? Is it capable of being misunderstood?"

Double-check the contents of the grievance with another officer or grievance coordinator.

If you follow these guidelines, the result will be a report which is more consistent, more detailed, and much more effective....a report which displays a degree of professionalism.

Updated August 15, 2013

What Makes A "Good" Grievance

A grievance is a legal document which alleges a breach of contract by an employer. It is imperative that the writer of a grievance treat the grievance with the same respect as any other LEGAL instrument. The following are some of the key components of a "good" grievance.

THE CHARGES

It is extremely important to list the correct charges on a grievance. Make absolutely sure the Articles of the Contract that are cited are appropriate for the incident described. Don't try to put a square peg in a round hole. If an Article doesn't fit the incident, don't cite it. If you're not sure, seek advice from more experienced officials. Spend time on research in order to file an accurate grievance

THE FACTS

Describe the incident in such a fashion that a person who has never been in your facility will be able to visualize the events leading up to and during the incident. Describe why the actions described violate the Articles cited in the charges. Stick to the facts and don't use window dressing. **If you refer to documents, such as Labor/Management agreements, medical documentation / receipts, pay stubs etc..., submit a copy of those documents with the grievance.** This is valuable evidence to be considered by the hearing officers. It is too late to run around and try and obtain this documentation when a grievance reaches Step 2 or Step 3. Do your homework before filing the grievance.

THE TRUTH

This is basic common sense. If you get caught exaggerating and/or lying on any part of the grievance, you might as well go home – it's all over!

TIMELINESS

Know the time limits in Article 7 and use them to your advantage. Do your research, get the supporting documentation and write a complete presentation, but do not exceed your time limits. **You have 20 calendar days from the date of the occurrence to file your grievance.** Also, if you lose at Step 1, immediately forward the grievance, the step 1 response and all supporting documentation to the NYSCOPBA Grievance Department so it may be appealed to step 2 in a timely manner. Please contact your Vice President or Business Agent for your regions method of getting the grievance to NYSCOPBA.

Political Action Contributions Policy & Procedures¹

- The NYSCOPBA PAC account shall be funded by the amount approved in the annual budget. The PAC Treasurer and Association Treasurer will see to it that this account complies with all State and Federal laws
- NYSCOPBA's President shall serve as the Political Action Fund Treasurer.
- Contributions to PAC's shall be by the PAC Treasurer only after consultation with the Association President, Executive Vice President, and Legislative Political Action Committee Chairperson and legislative Counsel. This does not preclude membership input. A report of such contributions shall be made at each scheduled meeting of the Executive Board, Legislative Political Action Committee meeting and Executive Assembly.
- Contributions are limited to statewide races; Governor, Lieutenant Governor, Comptroller, Attorney General; or State Senate, State Assembly, County Sheriff, County District Attorney or County Judge; or any Association member in good standing seeking political office.
- A Legislative Political Action committee report will be made at each regularly scheduled Executive Assembly that will include the balance in the NYSCOPBA PAC account, the amount of money deposited since last report, total expenditures since last report, and a year-to-date expenditure report.²
- Contributions to NYSCOPBA members running for political office shall be \$500 upon receipt of a written request and verification of their candidacy.³

Political Endorsements Policy & Procedures⁴

- Association endorsements shall be limited to statewide races; Governor, Lieutenant Governor, Comptroller, Attorney General; or State Senate, State Assembly, County Sheriff, County District Attorney or County Judge; or any Association member in good standing seeking political office.
- Candidates seeking the Association's endorsement will be evaluated based on the criteria including, but not limited to past political performance; voting record, if an incumbent;

¹ Adopted by NYSCOPBA's Executive Assembly on October 4, 2006

² Amended by motion at Executive Assembly on August 8, 2012

³ Increased from \$250 by motion to amend at Executive Assembly on December, 11, 2013

⁴ Amended by motion at Executive Assembly on October 12, 2016

record of support or opposition to the needs of the association; and/or the interest of that candidate in having NYSCOPBA's endorsement.

- Association sectors are not permitted to endorse candidates.
- When a request for an endorsement for political office is received by the Association, the request shall be put before the Legislative/PAC Committee for consideration of an Association endorsement. The Committee's recommendation shall be put before the Executive Board for further consideration.
- If the Executive Board determines that an endorsement is warranted, a poll of the Association's affected membership will be conducted in accordance with Article IV, Reservation of Members' Rights of the Association's Constitution.

In the event that the Association conducts a poll for the endorsement of a candidate for political office, such poll shall be conducted by the Election Committee of NYSCOPBA. The count of the endorsement poll shall be open for viewing to any member of NYSCOPBA in good standing.

Attendance at Political Fundraisers Policy and Procedures

- Attendance at political fundraisers by NYSCOPBA officers, officials, employees, and members acting as agents of NYSCOPBA shall be coordinated by the Legislative Director or the Association President. The legislative Director shall consult with the appropriate elected officials and Legislative Political Action Chairperson when coordinating attendance at these events.
- All NYSCOPBA attendees will present themselves and their issues in a manner which is conducive with that of the Association's legislative agenda and overall mission and purpose.

MOTION SHEET

I would like to make a motion to set a policy that a bi-monthly actuary report be given at each Executive Assembly to account for the PAC Fund monies.

Motion Made by: Robert Hartung
Motion Seconded by: Emilio Mei

Yes _____ NO _____ ABS _____

Motion **Passed**/Defeated: **unanimous** Date: 11/14/02



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd, - Albany, NY 12209
(518) 427-1551 nyscopba@nyscopba.org



Legislative/PAC Committee

Donn Rowe, President — PAC Treasurer Jason Zioikowski, Chairman (West)
Fran Kiernan (Central) Jose Pomales (Law Enforcement) Phil Jamison (Mid-Hudson)
Brent Dumas (North) David Luther (South)

RECOMMENDATION

Pursue Legislation to reimburse an active member's family for accumulated sick leave at the time of an active member's death;

After discussions and research from our last two committee meetings (17Dec13 & 28Jan14), the committee recommends that the desired effect of the Executive Assembly's motion would be best served through collective bargaining.

Not that either collective bargaining or legislation would be any easier, we came to the conclusion that with the present language regarding annual leave in the CBA; and the accumulation of sick leave; that collective bargaining would be more fluid and that the argument against legislation would be that the issue is better suited there.

28Jan14

Recommendation to send to the Collective Bargaining Committee in lieu of pursuing Legislation - DEFEATED

NYSOPBA will continue to pursue Legislation

February 12, 2014 EA

MOTION SHEET

Motion:

To pursue Legislation to reimburse an active member's family for accumulated sick time at the time of an active member's death.

Motion Made by: D. Vantassell

Motion Seconded by: John Telisky

Motion Passed/Defeated: **Passed unanimous**

Date: December 11, 2013

MOTION SHEET

Motion:

So that NYSCOPBA members can be as up to date as possible concerning possible legislation action that may affect them, be it resolved as follows: That any proposed action on NY State prison closures and or consolidations in the State Executive Budget or stand alone legislation, NYSCOPBA will inform each member possible by blast email and a copy of the proposed action be listed on the NYSCOBPA website front page and legislative page. If proposed action/legislation is brought up for a vote by a body of the legislature, a copy of how each member of the legislature voted shall also be blast emailed to all members possible showing how each legislator voted, final tally and if legislation passed or failed. This information will also be listed on the NYSCOPBA front page and legislative page as well.

Motion Made by: Dave Fletcher (for V. Blasio)

Seconded by: Louis Delmonte

Motion **Passed**/Defeated: unanimous

Date: December 12, 2012

MOTION SHEET

Motion:

Recommendation from the Legislative/PAC Committee

Upon careful consideration of the attached motion, it is the recommendation of the Committee that NYSCOPBA pursue and reallocation through the Division of Classification and Compensation in accordance with Section 118 of the Civil Service Law to its' completion, prior to attempting to submit legislation to accomplish the same.

Motion Made by: Legislative/ PAC Committee

Seconded by:

Motion **Passed**/ Defeated: Passed with one objection*

*J. Frawley

Date: December 12, 2012

MOTION SHEET

Motion:

To immediately form a committee or assign an existing committee to research, prepare and pursue legislation to achieve a salary upgrade for all NYSCOPBA members. i.e., CO salary grade to fifteen, sergeant salary grade eighteen, etc.

The focus of the committee and the organization should be to achieve this upgrade as soon as possible. And if at all possible have this salary upgrade in place before March 30, 2014 when the next negotiated percent raise of two percent take effect.

Also, if this upgrade can not be achieved before then, the organization will continue to pursue this litigation until it is either passed or defeated by the state legislature or the governor.

* *Unanimous consent given to assign to the Legislative / PAC Committee

Motion Made by: Jim Frawley

Seconded by: Dave Luther

Motion Passed/Defeated: unanimous - Yes -81; No - 0

Date: October 24, 2012

EMPLOYMENT POLICY

This policy addresses the hiring and termination of NYSCOPBA members (hereinafter “union employees”) who are not statewide elected officials, who are employed by the State of New York and are on Union Leave.

A. Hiring Policy

1. The hiring policy, which was approved by the Executive Assembly on September 8, 2005, shall remain in effect. A vacancy shall be filled utilizing the canvass process adopted by NYSCOPBA (i.e., notification will be sent to the local sectors to be posted on NYSCOPBA’s bulletin boards. The notification of a job opening shall be posted for thirty (30) days. Letters of intent and/or resumes shall be forwarded to the Recording Secretary. The Executive Board shall consider all applicants, and, if deemed necessary, interview certain applicants. After considering the applicants, the Executive Board shall render a determination. The action will be reported to the Executive Assembly.

B. Unsatisfactory Performance

1. Counseling: It is recommended that unsatisfactory job performance shall be addressed in a progressive manner. Poor performance shall be identified and the employee shall be given opportunities to alter and improve his or her performance. The union employee shall receive a verbal or written counseling. The counseling shall be in keeping with the seriousness of the offence. Counseling is not necessary in each instance. For example, theft from NYSCOPBA may warrant more severe action than a counseling.
2. Unsatisfactory Job Performance Procedure: If it is determined that a union employee is not performing to NYSCOPBA’s satisfaction, the union employee shall be advised in writing of the allegation of poor performance. The union employee shall have the opportunity to respond in writing to the allegation.
3. Heard by the Executive Board: The affected union employee shall have the opportunity to address the Board. The Board will determine when the employee’s matter shall be heard. (Depending on severity of the issue, the Executive Board may impose a suspension immediately.) The Executive Board will make the decision by majority vote.
4. The Executive Assembly has the final authority with respect to the hiring and dismissal of all employees, consultants and staff. The employee may, therefore, appeal the Executive Board’s determination to the Executive Assembly by submitting a written appeal by certified mail, with all supporting documentation, to NYSCOPBA’s Recording Secretary for placement on the agenda at the next Executive Assembly following termination. If the employee appeals the matter to the Executive Assembly, the decision of the Executive Assembly shall be final. All proceedings shall be held in Executive Session.

MOTION SHEET

Motion:

To amend the canvass policy that was unanimously accepted on 1/14/2000, to fill vacancies.

Expand policy to include associate members for vacancies and future positions.

Motion Made by: Diane Davis

Motion Seconded by: Kevin Walker

Motion **Passed**/ Defeated: **Unanimous**

Date: 12/5/2006 (Executive Board Meeting)

Date: 12/7/2006 (Executive Assembly Meeting)

MOTION SHEET

Motion:

To accept the hiring and firing policy as amended.

Motion Made by:

Motion Seconded by:

Motion **Passed**/ Defeated: 64 Yes

27 No

1 Abstain

Date: 09/08/2005

MOTION SHEET

That the E.A. direct the NYSCOPBA Executive Board to meet with all Business Agents and create a policy for hiring and firing of business agents, and to present a written draft to the EA on October 22-23, 2003 for the approval of the assembly.

The Policy should incorporate all previous policy and past practices, including an appeal process to maintain due process protections.

Amend to include all Union Leave Employees

Wisdom of the Motion: to prevent problems in the hiring and firing of business agents.

Motion Made by: Jeff Cullinan

Motion Seconded by: Gary Bensley

Motion **Passed**/ Defeated: **Unanimous**

Date: September 23, 2003

be a legal opinion concerning the motion's constitutionality delivered to the governing body.

New Business

{On recommendation of the Constitution and Bylaws Committee, Phil Bijeau made the following motion that was seconded by Dave Stanson:

Whenever a Union Leave employee vacancy occurs in the main office of NYSCOPBA, and prior to appointing anyone, the Executive Board give notice to all sectors so everyone has the opportunity to send a resume showing his/ her interest in the opening. }

Following a brief discussion, a vote was taken and the motion unanimously passed.

Diane Davis made a motion concerning the sending of flowers to members who are hospitalized. Bob Cronin recommended that her motion be tabled and referred to the Finance Committee that is scheduled to meet on January 24 and 25, 2000. Diane was agreeable to the suggestion.

Anthony Farda requested permission to hire temporary, clerical help for the Satellite Office. It would be at a cost of \$10.00 per hour and it would be for no more than three days a week. A discussion followed. The group agreed by unanimous consent that if a need arises in a Satellite Office, temporary clerical help may be obtained.

At this time the following motion was presented by Anthony Farda and seconded by Grant Marin:

A Board of Trustees consisting of six Chief Sector Stewards (two of which will act as alternates) be nominated and elected from the Executive Assembly. The nominations to take place at the February 2000 Assembly. Following nominations, the list of nominees will be placed on the agenda for the following Executive Assembly at which time a vote will take place thereby allowing membership input in this process. The purpose of this Board will be to oversee the quarterly audit and report their findings to the Executive Assembly at the first meeting following said audit.

A discussion took place on this issue. No vote was taken due to a subsidiary motion made by Dave Stanson and seconded by Phil Bijeau:

To table this motion until a legal opinion is given on the constitutionality of the motion.

LEGAL DEFENSE FUND POLICY

NYSCOPBA has created a Legal Defense Fund for its members. The NYSCOPBA Executive Board, in its discretion, based on the facts and circumstances of each case, shall determine whether the actions occurred while the member was engaged in the lawful performance of his or her duties and that assisting in such legal defense shall be consistent with the overall interests of the general membership. The NYSCOPBA Executive Board shall consider the following criteria:

1. Eligibility

Any active dues paying member in the New York State Correctional Officers & Police Benevolent Association, Inc. Union can participate in the Legal Defense Fund upon fulfillment of each of the following three criteria:

- a. Filing with the Plan Administrator a properly completed application.
- b. Approval of the application by the Legal Defense Fund.
- c. Commencement and continuation of the required contribution to the Legal Defense Fund.

2. Benefit

The purpose of the Legal Defense Fund is to provide legal defense for qualifying members for actions that occur while the member was engaged in the lawful performance of his or her duties. A "member" is an employee of the Security Services Unit of New York State represented by NYSCOPBA.

- a. **Performance of Duty:** The coverage is only for members' acts or omissions that occurred in the course and scope of the members' performance of duty and must be consistent with the overall interests of the general membership. If the member is involved in alleged off-duty conduct, money from the Legal Defense Fund shall not be used (e.g. domestic incidents, outside drug and/or alcohol charges, workers' compensation, theft).
- b. **Former Member:** The member must be an active member, except insofar as the event giving rise to the claim occurred while the individual was an active member.
- c. **Approved Leave of Absence:** If the member is on leave of absence approved by his or her employer, the member will be eligible for benefits under the Legal Defense Fund for events occurring prior to his or her approved leave of absence. Events occurring while the member was on the leave will not be covered.

3. Amount of Coverage

The maximum benefit per occurrence is \$25,000. The \$25,000 shall be broken down in the following manner:

- a. \$5,000 may be provided up to the time of arraignment.
- b. When a criminal information and/or indictment is issued, the member may request from the Legal Defense Fund additional funds in increments up to \$10,000.
- c. The total benefit available from the Legal Defense Fund [for any qualifying incident] may not to exceed \$25,000.

4. Exclusions from Coverage

The Fund does not cover acts or omissions as the result of off-duty conduct or while on a leave of absence, including but not limited to domestic incidents, outside drug and/or alcohol charges, and theft. No benefits under the Fund will be provided with respect to workers' compensation claims, all civil defense, or post-sentencing or appellate review.

In addition, if the Plan Administrator determines that Fund benefits have been provided to a member as a result of misrepresentations of that member and/or a member does not cooperate with the Plan Administrator during the course of such member's claim for benefits, payment of such benefits may cease and the Fund will have the right to seek reimbursement from the member of any benefits already paid.

5. Termination of Benefits

Except insofar as to the acts or omissions giving rise to the claim occurred prior to such termination of coverage, the benefits will automatically terminate when one or more of the following situations occur:

- a. Individual ceases to be a member of NYSCOPBA;
- b. Employment terminates; or
- c. The Legal Defense Fund is terminated.

6. Claims Procedures

- a. If a member seeks an allocation from the Legal Defense Fund, he/she must submit a Legal Defense Fund Application to the Regional Vice President of his or her Region who is acting as representative for the Plan Administrator for purpose of accepting the member's application. The member may initially seek up to \$5,000 up to the time of arraignment as set forth in Amount of Coverage.

- b. After the member has been arraigned, he or she may request additional funds from the Plan Administrator with an explanation of how (i) the action occurred while the member was engaged in the lawful performance of his or her duties and (ii) assisting in such defense shall be consistent with the overall interests of the general membership. The coverage is only for lawful acts or omissions that occurred in the course of employment. The member must make clear in his or her application how his or her request is related to such events. The payments will be made only after the member complies with all requests of the Plan Administrator. If the Plan Administrator approves the member's request, the check will be transmitted directly to the member's criminal attorney. To the extent the member already paid the attorney, the member will need to request reimbursement of fees from the attorney.
- c. In order to ensure timely processing of a member's claim application, the Legal Defense Fund Application should be completed accurately, including providing sufficient information for the Plan Administrator to determine that the member's actions which are the subject of the complaint are within the course and scope of employment covered by the Legal Defense Fund.
- d. The member must also attach documentation that the member applied for reimbursement under NYS Public Officers Law (POL) Section 19.
- e. The member must also agree that if the member is acquitted of the charges or it is determined that the member is entitled to reimbursement of his/her legal fees, the member agrees to cooperate with NYSCOPBA in seeking reimbursement from the NYS Attorney General's Office and return money given from the Fund to NYSCOPBA.

7. Benefit Claims and Review

A member is only treated as filing a claim for Fund benefits when the member submits a Legal Defense Fund Application to the Plan Administrator. For purposes of the Fund's claims and review procedures, a member is not treated as filing a claim for Fund benefits when the member or the member's attorney asks the Plan Administrator by telephone if coverage is available to the member for a particular incident or legal action.

The Plan Administrator will notify a member in writing if the member's claim for Plan benefits is denied, within the time periods described below. The notice will set forth:

- a. The specific reason or reasons for the denial;
- b. Reference to the specific Fund provisions on which the denial is based;
- c. A description of any additional material or information necessary for the Participant to perfect the claim and an explanation of why the material or information is necessary; and

- d. A description of the Fund's review procedures and the time limits applicable to the review procedures, including a statement of the Participant's right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), if the claim for benefits is denied on review.

The Plan Administrator will provide the written notice to the member as soon as possible, but not more than 90 days after the Plan Administrator receives the Participant's claim, unless the Plan Administrator determines that an additional period of time, not to exceed 90 days, is required because of matters beyond the control of the Fund. If an additional period of time is required, the Plan Administrator will notify the Participant in writing of the circumstances requiring the extension of time and the date by which the Plan Administrator expects to render a decision.

If the Plan Administrator notifies a Participant that the Plan Administrator has denied all or part of the Participant's claim, the Participant may request a review of the denial. The Participant or the Participant's authorized representative must notify the Review Panel of the Plan Sponsor in writing of the Participant's request for a review of the denial within 60 days after the Participant receives written notice of the denial from the Plan Administrator.

The Review Panel will give the Participant or the Participant's authorized representative the opportunity to submit written comments, documents, records, and other information relating to the Participant's claim for Fund benefits.

Upon request and free of charge, the Participant or the Participant's authorized representative will be provided reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits.

The Review Panel's review will take into account all comments, documents, records, and other information submitted by the Participant or the Participant's authorized representative relating to the claim, without regard to whether the information was submitted or considered by the Plan Administrator.

The Review Panel will notify a Participant in writing of the Review Panel's decision upon review. The notice will set forth:

- a. The specific reason or reasons for the decision;
- b. Reference to the specific Fund provisions on which the decision is based;
- c. A statement that the Participant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits; and
- d. A statement of the Participant's right to bring an action under Section 502(a) of ERISA.

The Review Panel will make its decision no later than 60 days after the date the Review Panel received the request for review. However, if the Review Panel determines that special circumstances require an extension of time for processing the review request, the Review Panel will notify the Participant in writing before the end of the initial 60-day period. The notice to the Participant will indicate the special circumstances requiring the extension of time and the date as of which the Review Panel will make its decision, which must be within 120 days after the date the Review Panel received the request for review.



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 nyscopba@nyscopba.org



LEGAL DEFENSE FUND APPLICATION

To: _____
(Your Regional Vice President)

Date: _____

From: _____
(Your name)

Title: _____
(Your title)

Agency and Facility: _____
(Your agency and work location)

E-Mail: _____
(Please print)

Telephone: _____
(Home phone)

(Cell Phone)

Amount Requested: _____

All information and documents below are REQUIRED. The application CANNOT be considered by the Executive Board until all three requirements below are met.

- 1. Attach a copy of the information, complaint, accusatory instruments and/or Grand Jury Subpoena.** If you do not have any of the above, attach an additional sheet containing date, time, nature of the arrest and the agency and/or department who arrested you.
- 2. On an attached sheet, state how your alleged act or omission occurred in the course and scope of your lawful performance of duty.** The Executive Board will consider whether assisting in such legal defense is consistent with the overall interests of the general membership.
- 3. Attach documents showing you applied for reimbursement under NYS Public Officer Law §19.** The application for reimbursement is attached to this application and must be sent by you, via certified mail return receipt requested and via regular mail to the Attorney General's Office. Reimbursement under Section §19 of the Public Officers Law is time-sensitive and is conditioned on delivering to the Attorney General's office a written request for reimbursement within ten (10) days after arraignment or after a grand jury appearance. Written evidence (such as a subpoena) of the grand jury appearance is also required. Further, §19 of the Public Officers Law conditions reimbursement upon your full cooperation in the defense of any action or proceeding against the State which might have arisen out of your actions. Reimbursement is left to the discretion of the Attorney General's Office. (Attached is a copy of Public Officer's Law §19 and the policy adopted by the Executive Assembly October 2012.)

Signed: _____

Date: _____



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 nyscopba@nyscopba.org



[Date]

Hon. Eric T. Schneiderman
NYS Attorney General
Office of the Attorney General
The Capitol
Albany, NY 12224-0341

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND REGULAR MAIL

Re: Reimbursement of Attorney Fees

Dear Attorney General Schneiderman:

I am employed as a _____ with the _____ (Department/Agency). Pursuant to § 19 of the Public Officers Law, I am writing to request reimbursement of attorneys' fees and litigation expenses.

Enclosed is a copy of my accusatory instrument.

Please let me know if you require any additional information.

Very truly yours,



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 nyscopba@nyscopba.org



[Date]

Hon. Eric T. Schneiderman
NYS Attorney General
Office of the Attorney General
The Capitol
Albany, NY 12224-0341

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND REGULAR MAIL

Re: Reimbursement of Attorney Fees

Dear Attorney General Schneiderman:

I am employed as a _____ with the _____ (Department/Agency).
On _____, I was required to appear before the _____ Grand Jury. Pursuant to § 19
of the Public Officers Law, I am writing to request reimbursement of attorneys' fees and litigation
expenses.

Please let me know if you require any additional information.

Very truly yours,

RAINY DAY FUND POLICY

NYSCOPBA has created a Rainy Day Fund for its members. The purpose of the Rainy Day Fund is to provide supplemental income for qualifying members who are suspended without pay for disciplinary reasons for incidents that occur while on duty. For those members who do not utilize the Rainy Day Fund during their careers, a Separation Benefit is also established under this fund. The NYSCOPBA Executive Board, in its discretion, based on the facts and circumstances of each case, shall determine whether the actions occurred while the member was engaged in the lawful performance of his or her duties and that providing supplemental income during that period of suspension shall be consistent with the overall interests of the general membership. The NYSCOPBA Executive Board shall consider the following criteria:

Eligibility

Any active dues paying member in the New York State Correctional Officers & Police Benevolent Association, Inc. Union can participate in the Rainy Day Fund upon fulfillment of each of the following three criteria:

- a. Filing with the Plan Administrator a properly completed application.
- b. Approval of the application by the Rainy Day Fund.
- c. Commencement and continuation of the required contribution to the Rainy Day Fund.

Benefits under the Fund

Supplemental income during suspension

The Fund benefits described below are only available to members who receive a Notice of Discipline and are suspended without pay for incidents that occur while on duty. The NYSCOPBA Executive Board in its sole discretion shall determine whether the conduct alleged in the Notice of Discipline occurred while the member was engaged in the performance of his or her duties.

There is a fourteen (14) calendar day "waiting period" from the time the member is suspended without pay before the member becomes eligible for Fund benefits.

All Fund benefits will cease if the member agrees to settlement of the Notice of Discipline.

All Fund benefits will cease if a member is found guilty of any or all charges imposed upon him/her within the Notice of Discipline immediately as of the date of the arbitrator's

decision. The Fund will not pay supplemental income during any going forward penalty period assigned by the arbitrator and/or agreed to by the member.

All Fund benefits will cease if the member admits guilt, resigns from their position or lack of active participation from the member in the pending case.

Amount of Coverage

The maximum benefit is the lesser of \$1,500 or the members' bi-weekly salary, payable every two weeks while the member is suspended, excluding the waiting period.

Each payment will coincide with the regular pay schedule currently in place. All payments will be pro-rated based on the actual number of day(s) suspended after the member satisfies the fourteen (14) day waiting period.

All funds paid by the Rainy Day Fund are subject to both Federal and State income taxation.

Separation Benefit

In general, if a member does not utilize the Rainy Day Fund at any time during his/her employment, he/she shall be entitled to receive a benefit upon his/her retirement or separation of service. If, however, the member utilizes and subsequently fully reimburses the Rainy Day Fund for monies utilized, the member shall be entitled to the Separation Benefit upon his/her separation from service.

Amount of Coverage

Upon retirement/separation, each member shall receive a lump-sum payment calculated at the rate of \$50 per year of participation in the Rainy Day Fund, excluding the first year of participation. The maximum benefit a member shall receive shall be \$1,250, recognizing twenty-six years of service and participation in the Rainy Day Fund for twenty-six years (as the first year of service is excluded from the calculation).

All funds payable as Separation Benefit are subject to both Federal and State income taxation.

Exclusions from Coverage

The Fund does not cover acts or omissions as the result of off-duty conduct or while on a leave of absence, including but not limited to domestic incidents, outside drug and/or alcohol charges, and theft.

In addition, if the Plan Administrator determines that Fund benefits have been provided to a member as a result of misrepresentations of that member, and/or a member does

not cooperate with the Plan Administrator during the course of such member's claim for benefits, payment of such benefits may cease and the Fund will have the right to seek reimbursement from the member of any benefits already paid.

Termination of Benefits

Except insofar as to the acts or omissions giving rise to the claim occurred prior to such termination of coverage, the benefits will automatically terminate when one or more of the following situations occur:

- a. Individual ceases to be a member of NYSCOPBA;
- b. Employment terminates; or
- c. The Rainy Day Fund is terminated

Claims Procedures

Upon receiving a Notice of Discipline and/or suspension notice, the member must submit a copy of the Notice of Discipline and or suspension notice to the Regional Vice President of his or her Region who is acting as representative for the Plan Administrator for purpose of accepting the member's application.

NYSCOPBA shall provide the member with an application and the member must submit the application to the Recording Secretary who shall forward the request to the NYSCOPBA Executive Board to determine whether the member qualifies for the benefit. The NYSCOPBA Executive Board shall determine whether the member meets the criteria for the benefit.

In order to ensure timely processing of a member's claim application, the Rainy Day Fund Application should be completed accurately, including providing sufficient information for the Plan Administrator to determine that the member's conduct alleged in the Notice of Discipline occurred while the member was engaged in the performance of his or her duties.

The member must also agree that if the member is, by settlement, arbitration or other means, restored to the payroll for any period of time for which he/she received payment from the Fund, the member shall reimburse to NYSCOPBA the amount paid to the member during his/her period of suspension. The member must execute a signed agreement before receiving any payments, and as a condition thereof, if he/she receives his/her back pay, the member shall reimburse NYSCOPBA.

Benefit Claims and Review

A member is only treated as filing a claim for Fund benefits when the member submits a Rainy Day Fund Application to the Plan Administrator. For purposes of the Fund's claims and review procedures, a member is not treated as filing a claim for Fund benefits when the member or the member's representative asks the Plan Administrator by telephone if coverage is available to the member for a particular incident.

The Plan Administrator will notify a member in writing if the member's claim for Fund benefits is denied, within the time periods described below. The notice will set forth:

- The specific reason or reasons for the denial;
- Reference to the specific Fund provisions on which the denial is based;
- A description of any additional material or information necessary for the Participant to perfect the claim and an explanation of why the material or information is necessary; and
- A description of the Fund's review procedures and the time limits applicable to the review procedures, including a statement of the Participant's right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), if the claim for benefits is denied on review.

The Plan Administrator will provide the written notice to the member as soon as possible, but not more than 90 days after the Plan Administrator receives the Participant's claim, unless the Plan Administrator determines that an additional period of time, not to exceed 90 days, is required because of matters beyond the control of the Plan. If an additional period of time is required, the Plan Administrator will notify the Participant in writing of the circumstances requiring the extension of time and the date by which the Plan Administrator expects to render a decision.

If the Plan Administrator notifies a Participant that the Plan Administrator has denied all or part of the Participant's claim, the Participant may request a review of the denial. The Participant or the Participant's authorized representative must notify the Review Panel of the Plan Sponsor in writing of the Participant's request for a review of the denial within 60 days after the Participant receives written notice of the denial from the Plan Administrator.

The Review Panel will give the Participant or the Participant's authorized representative the opportunity to submit written comments, documents, records, and other information relating to the Participant's claim for Fund benefits.

Upon request and free of charge, the Participant or the Participant's authorized representative will be provided reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits.

The Review Panel's review will take into account all comments, documents, records, and other information submitted by the Participant or the Participant's authorized representative relating to the claim, without regard to whether the information was submitted or considered by the Plan Administrator.

The Review Panel will notify a Participant in writing of the Review Panel's decision upon review. The notice will set forth:

- The specific reason or reasons for the decision;
- Reference to the specific Fund provisions on which the decision is based;
- A statement that the Participant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits; and
- A statement of the Participant's right to bring an action under Section 502(a) of ERISA.

The Review Panel will make its decision no later than 60 days after the date the Review Panel received the request for review. However, if the Review Panel determines that special circumstances require an extension of time for processing the review request, the Review Panel will notify the Participant in writing before the end of the initial 60-day period. The notice to the Participant will indicate the special circumstances requiring the extension of time and the date as of which the Review Panel will make its decision, which must be within 120 days after the date the Review Panel received the request for review.

THE RAINY DAY FUND APPLICATION AND AGREEMENT

To: _____
(Recording Secretary)

Date: _____

From: _____
(Your Name)

Title: _____
(Your Title)

Agency and Facility: _____
(Your Agency & Work Location)

Email: _____
(Please Print)

Telephone: _____
(Home Phone)

(Cell Phone)

All information and documents below are REQUIRED

Specify how the conduct alleged in the Notice of Discipline (NOD) occurred while you were engaged in the performance of your duties under your specialized official title.

The Rainy Day Fund (RDF) began March 1, 2016. This Application and Agreement shall comply with the terms of the RDF Policy. In the event this Application and Agreement conflicts with the terms of the RDF Policy, the terms of the RDF Policy shall prevail.

Before being eligible to participate in the RDF, I must execute this Application and Agreement. Applications will be submitted to NYSCOPBA's Executive Board for monthly review. If approved, the availability of funds may revert back to the date of application, but no sooner than fourteen days from the date of suspension.

I hereby understand that by submitting this signed Application and Agreement; if I am restored to the payroll for any period of time for which payment is received from the RDF whether by settlement, Arbitrator decision, or other means; I shall immediately reimburse to NYSCOPBA the amount paid to me during my period of suspension. Additionally, I understand that, if payment is received from RDF after the date of settlement or Arbitrator decision, I shall reimburse to NYSCOPBA the amount paid to me after settlement or decision. As a condition to receiving benefits under this fund, I hereby assign NYSCOPBA any back pay I subsequently receive, whether through settlement, arbitration award or otherwise; to the extent of the benefits received under this Fund.

Upon demonstrating that I am suffering a hardship, and am unable to immediately reimburse NYSCOPBA; NYSCOPBA in its sole discretion may agree to offer applicant a payment plan in an effort to satisfy the balance due.

In the event (a) I violate the terms contained in the RDF Policy or the RDF Application and Agreement or (b), fail to make payment as set forth herein or set forth in the payment plan authorized by NYSCOPBA; I agree to pay interest on the outstanding balance at a rate of 9% per annum until the balance is paid in full and reasonable attorney fees, collection fees and/or costs incurred in recover of the outstanding obligation herein.

****MONEY APPROPRIATED THROUGH THIS FUND IS CONSIDERED TAXABLE INCOME **** Proper tax documentation will be filed with appropriate taxing authorities.

I also understand I am not entitled to receive a separation benefit from NYSCOPBA upon my retirement from service unless I subsequently reimburse the RDF for money utilized. If, however, I fully reimburse the RDF I shall be entitled to the separation benefit upon my separation from service.

I also acknowledge that I have been provided a copy of the RDF policy and fully understand the terms set forth therein.

****Please note that the address noted on the issued NOD will be where the RDF checks are mailed if approved. If no address is noted on the NOD the RDF checks will be mailed to the address currently on file with your payroll department. If you would like the check(s) mailed to a different address you must note the address on this application.**

Please check off the method of delivery to receive your funds, if approved.

Mail paper check

Direct Deposit – Please provide the following;

Routing Number (9 -Digits) _____

Account Number (3-17 Digits) _____

Bank Name - _____

Name on Account - _____

- Please include a voided check with your application if choosing Direct Deposit

Signed: _____ Date: _____

PLEASE MAIL ALL APPLICATIONS TO: NYSCOPBA, 102 HACKETT BLVD., ALBANY, NY 12209 – ATTN: MIKE DILDINE, RECORDING SECRETARY

OUTLINE OF POLICY AND PROCEDURES FOR REPRESENTATION WHEN A MEMBER RECEIVES A NOTICE OF DISCIPLINE (NOD) AND FAILS TO COOPERATE IN HIS/HER DEFENSE

Discipline is an issue NYSCOPBA takes very seriously. Every member served with a disciplinary charge (Notice of Discipline) is provided legal representation at the Union's expense. NYSCOPBA's goal is to make sure every member gets the most thorough and aggressive defense possible.

In order to achieve this goal, it is imperative that the member who receives the Notice of Discipline cooperates in his/her defense. If the member fails to cooperate in his/her defense, the NYSCOPBA Executive Board, in its discretion, based on the facts and circumstances of each case, shall determine whether it is appropriate to continue to represent the member and pay for his/her legal representation, including the costs associated with arbitration. The following procedures shall be followed by the NYSCOPBA Executive Board prior to rendering a determination not to represent the member:

- 1) The assigned attorney writes a letter to the member at the last known address as listed on NYSCOPBA's database advising the member that he/she is represented by the attorney. The letter shall ask the member to contact the attorney. The Vice President and/or Business Agent of the region and Chief Sector Steward will be provided a copy of the letter.
- 2) If the attorney does not hear from the member, the Vice President/ Business Agent and/or Chief Sector Steward shall contact the member and ask him/her to contact his/her assigned representative.
- 3) If NYSCOPBA does not hear from the member, a second letter will be sent by either the assigned attorney and/or the Vice President and/or Business Agent of the region. Additionally, the regional representative and local steward shall attempt to contact the member and advise him/her to contact the assigned NYSCOPBA representative.
- 4) If the member fails to cooperate, a third letter shall be sent to the member advising the member that unless he/she contacts NYSCOPBA, a recommendation will be made to the Board that NYSCOPBA is unable to represent the member. The member will be advised that NYSCOPBA's Board will address his/her situation and the Executive Board may authorize the attorney to resign from the case. The letter will also advise the member that he/she will have to retain representation at his/her own expense which includes the cost of the hearing.
- 5) The Board has the authority to take appropriate action including, but not limited to, advising the member that since he/she has failed to assist in his/her representation, NYSCOPBA is unable to represent the member in the defense of the Notice of

Discipline. The member will be responsible for the payment of his/her attorney fees and the cost associated with the hearing.

- 6) A final letter will be sent to the member advising the member of NYSOCPBA's determination and/or any other actions the NYSCOPBA Board chooses to make based on the facts and circumstances of the particular matter.
- 7) The arbitrator and the State's representative will be notified that NYSCOPBA is not representing the member in the disciplinary grievance.

August 8, 2012
Executive Assembly Meeting

Policy was adopted with objectors

Luther, Sing Sing; VP Perez, Southern Region; Patterson, Edgecombe;
Hale, Bedford Hills; Lashua, Greene

NYSCOPBA Retiree Chapter Policy

PURPOSE

The NYSCOPBA Retiree Chapter, an organization of the New York State Correction Officer and Police Benevolent Association, to advance and promote the NYSCOPBA programs for Retired members.

GOVERNING AUTHORITY

The NYSCOPBA Retiree Chapter shall be governed by these policies which shall be compatible with the Constitution and Bylaws of NYSCOPBA.

OBJECTIVES

The NYSCOPBA Retiree Chapter shall:

- A. provide opportunity for NYSCOPBA members to continue their membership and involvement in the NYSCOPBA following retirement from active employment;
- B. NYSCOPBA Retiree Chapter members, provide opportunities for their involvement in certain NYSCOPBA sponsored programs;
- C. establish opportunities for NYSCOPBA Retiree Chapter members to address and pursue issues of common concern, create avenues to safeguard and strengthen retirement benefits;
- E. create ways and means for NYSCOPBA Retired members to join with the NYSCOPBA Retiree Chapter in efforts to bring about positive support for Retiree Chapter members and the achievement of NYSCOPBA Retiree Chapter objectives;

NYSCOPBA RETIREE CHAPTER MEMBERSHIP

Section 1. *Eligibility*

The NYSCOPBA Retiree Chapter shall be comprised solely of the retired associate members of NYSCOPBA or; any NYSCOPBA honorary member who has resigned and taken membership with another unit provided a majority approval of the Executive Board. Honorary members must submit a completed application to the Executive Board for approval. Retired membership with NYSCOPBA's Retiree Chapter is open to any person who is eligible to receive a pension from the NYS Local and Retirement System. Retired membership is limited to persons who support the purposes and programs of the Retiree Chapter.

Section 2. *Benefits and Services*

NYSCOPBA Retiree Chapter members shall be eligible to receive benefits and services of the Retiree Chapter authorized by the NYSCOPBA Executive Board.

Section 3. *Exemptions*

Retirees will not be eligible to receive benefits and services of the Retiree Chapter when:

- A. Any Retiree has left service due to an inappropriate relationship with an inmate or person confined in an institution under the jurisdiction of the NYS Department of Corrections or Office of Mental Health or;
- B. Any Retiree has left service due to a felony conviction or;

- C. Any Retiree who chooses to not join the Chapter or;
- D. Any Retiree who refuses to set up automatic dues deductions or;
- E. Exemption as deemed appropriate by the NYSOPBA Executive Board.

DUES AND FINANCES

Section 1. *Dues*

Dues of Retired members of the NYSOPBA Retiree Chapter shall be established by the NYSOPBA Constitution and Bylaws payable through automatic monthly pension deduction.

Section 2. *Income*

Income for NYSOPBA Retiree Chapter membership shall be derived from monthly pension deductions and the interest from the lifetime account.

THE NYSOPBA RETIREE COMMITTEE

Section 1. *Rights and Benefits*

Members of the NYSOPBA Retiree Chapter shall have rights and benefits as provided in the NYSOPBA Constitution and Bylaws.

Section 2. *Number of Members*

The number of Retiree Committee members shall be determined as provided in the NYSOPBA Constitution and Bylaws.

Section 3. *Eligibility*

Only active NYSOPBA Retiree Chapter members shall be eligible to serve on the NYSOPBA Retiree Committee.

Section 4. *Election*

The election of Retiree Committee members shall be determined as provided in the NYSOPBA Constitution and Bylaws.

Section 5. *Vacancy*

Any vacancies of the Retiree Committee members shall be determined as provided in the NYSOPBA Constitution and Bylaws.

SECTOR REPORTING POLICY & PROCEDURE

PURPOSE: Establish a standard for the reporting of Sector Activity to the Association Recording Secretary. Compile a tangible, current working resource and history to pass on.

PROCEDURE: Each CSS or designee shall submit to the Regional Vice President and the Association Recording Secretary on the last day of each month a report containing Sector business.

This report shall include, but not be limited to, membership meeting minutes (including attendance and motions submitted); labor/ management minutes; labor/ management agreements; changes in stewards; any other pertinent information.

Should there be no sector activity for the month, a report shall be submitted indicating such.

The Recording Secretary shall forward information to the appropriate departments, then archive all reports at the Association Headquarters.

Submitted by: Diane Davis, Recording Secretary August 6, 2002

August 29, 2002 – Executive Assembly – Motion to adopt policy made by Diane Davis, Motion Seconded by Paul Mikolajczyk – Policy Adopted

62 Yes

13 No

1 Abstain

SECTOR MINUTES TEMPLATE

FACILITY:

DATE:

PRESENT: Sector Chief & Stewards
 Members Present (attach sign in sheet)

MINUTES PREVIOUS:

SECTOR REPORT:

TREASURER REPORT:

UNFINISHED BUSINESS:

NEW BUSINESS:

Submitted by:

Sector Recording Secretary

Excerpts from Roberts Rules of Order

§48 – MINUTES AND REPORTS OF OFFICERS

Minutes

The record of the proceedings of a deliberative assembly is usually called the minutes, or sometimes – particularly in legislative bodies – the journal. In an ordinary society, unless the minutes are to be published, they should contain mainly a record of what was done at the meeting, not what was said by the members. The minutes should never reflect the secretary's opinion, favorable or otherwise, on anything said or done. The minutes should be kept in a substantial book or binder.

CONTENT OF THE MINUTES

The first paragraph of the minutes should contain the following information (which need not, however, be divided into numbered or separated items directly corresponding to those below):

1. [page 452] the kind of meeting: regular, special, adjourned regular, or adjourned special;
2. The name of the society or assembly;
3. The date and time of the meeting, and the place, if it is not always the same;
4. The fact that the regular chairman and secretary were present or, in their absence, the names of the persons who substituted for them; and
5. Whether the minutes of the previous meeting were read and approved- as read, or as corrected- and the date of that meeting if it was other than a regular business meeting. Any correction is made in the text of the minutes being approved; the minutes of the meeting making the correction merely state that the minutes were approved “as corrected” (see form, p. 454, 1. 34-35). The body of the minutes should contain a separate paragraph for each subject matter, giving, in the case of all important motions, the name of the mover, and should show:
 - a.) The wording in which each motion was adopted or otherwise disposed of (with the facts as to whether the motion may have been debated or amended before [page 453] disposition being mentioned only parenthetically); and
 - b.) The disposition of the motion, including – if it was temporarily disposed of (pp. 88, 329-30) – any primary and secondary amendments and all adhering secondary motions that were then pending;
6. All main motions (10) or motions to bring a main question again before the assembly (pp. 72-76; 34-37)- except, normally, any that were withdrawn* - stating:
 - a.) The wording in which each motion was adopted or otherwise disposed of (with the facts as to whether the motion may have been debated or amended before [page 453] disposition being mentioned only parenthetically); and
 - b.) The disposition of the motion, including – if it was temporarily disposed of (pp. 88, 329-30) – any primary and secondary amendments and all adhering secondary motions that were then pending;
7. Secondary motions that were not lost or withdrawn, in cases where it is necessary to record them for completeness or clarity – for example, motions to Recess or to Fix the Time to Which to Adjourn (among the privileged motions), or motions to Suspend the Rules or grant a Request to Be Excused from a Duty (among the incidental motions), generally only alluding to the adoption of such motions, however, as “...the matter having been advanced in the agenda on motion of ...” or “...a ballot vote having been ordered, the tellers...”;
8. All notices of motions (pp. 116-18); and
9. All points of order and appeals, whether sustained or lost, together with the reasons given by the chair for his or her ruling.

The last paragraph should state:

10. The hour of adjournment.

Additional rules and practices relating to the content of the minutes are the following:

- The name of the seconder of a motion should not be entered in the minutes unless ordered by the assembly.
- When a count has been ordered or the vote is by ballot, the number of votes on each side should be entered; and when the voting is by roll call, the names of those voting on each side and those answering “Present” should be entered. If members fail to respond on a roll-call [page 454] vote, enough of their names should be recorded as present to reflect that a quorum was present at the time of the vote. If the chair voted, no special mention of this fact is made in the minutes.
- The proceedings of a committee of the whole, or a quasi committee of the whole, should not be entered in the minutes, but the fact that the assembly went into committee of the whole (or into quasi committee) and the committee report should be recorded (see 52)
- When a question is considered informally, the same information should be recorded as under the regular rules, since the only informality in the proceedings is in the debate.
- When a committee report is of great importance or should be recorded to show the legislative history of a measure, the assembly can order it “to be entered in the minutes”, in which case the secretary copies it in full in the minutes.
- The name and subject of a guest speaker can be given, but no effort should be made to summarize his remarks.

THE SIGNATURE

Minutes should be signed by the secretary and can also be signed, if the assembly wishes, by the president. The words Respectfully submitted – although occasionally used – represent an older practice that is not essential in signing the minutes.

FORM OF THE MINUTES

The principles stated above are illustrated in the following model form for minutes:

The regular monthly meeting of the L.M. Society was held on Thursday, January 4, 20__, at 8:30 P.M., at the Society’s building, the President being in the chair and the Secretary being present. The minutes of the last meeting were read and approved as corrected. [page 455] The Treasurer reported the receipt of a bill from the Downs Construction Company in the amount of \$5,000 for the improvements recently made in the Society’s building. The question put by the chair “that the bill be paid” was adopted. Mr. Johnson, reporting on behalf of the Membership Committee, moved “that John R. Brown be admitted to membership in the Society.” The motion was adopted after debate.

The report of the Program Committee was received and placed on file.

The special committee that was appointed to investigate and report on suitable parking facilities near the Society’s building reported, through its chairman, Mrs. Smith, a resolution, which, after debate and amendment, was adopted as follows: “Resolved, That...[its exact words immediately before being acted upon, incorporating all amendments].”

The resolution relating to the use of the Society’s library by nonmembers, which was postponed from the last meeting, was then taken up. This motion and a pending amendment were laid on the table after the chair announced that the guest speaker had received a phone message which would require his early departure.

The President introduced the guest speaker, Mr. James F. Mitchell, whose subject was _____. At the conclusion of Mr. Mitchell's talk, the resolution relating to the use of the Society's library by nonmembers was taken from the table. After amendment and further debate, the resolution was adopted as follows: "Resolved, That...[its exact wording immediately before being finally voted on]."

Mr. Gordon moved "that the Society undertake the establishment of a summer camp for boys on its lakefront property." Mrs. Thomas moved to amend [page 456] this motion by inserting the word "underprivileged" before "boys." On motion of Mr. Dorsey, the motion to establish the camp, with the pending amendment, was referred to a committee of three to be appointed by the chair with instructions to report at the next meeting. The chair appointed Messrs. Flynn, Dorsey, and Fine to the committee.

The meeting adjourned at 10:05 P.M.

Margaret Duffy, Secretary

READING AND APPROVAL OF THE MINUTES

When the next regular business session will be held within a quarterly time interval (see p. 88), when the session does not last longer than one day, and when there will be no change or replacement of a portion of the membership before the next session, procedures relative to the reading and approval of minutes are as follows:

- The minutes of the meeting are normally read and approved at the beginning of the next regular meeting, immediately after the call to order and any opening ceremonies. An adjourned meeting of an ordinary society approves the minutes of the meeting that established the adjourned meeting; its own minutes are approved at the next adjourned or regular meeting, whichever occurs first. A special meeting does not approve minutes; its minutes should be approved at the next regular meeting.
- Corrections, if any, and approval of the minutes are normally done by unanimous consent. The chair calls for the reading of the minutes, asks for any corrections, then declares the minutes approved, as shown on pages 343-44.
- By a majority vote without debate, the reading of the minutes can be "dispensed with" – that is, not carried out at the regular time. If the reading of the minutes is [page 457] dispensed with, it can be ordered (by majority vote without debate) at any later time during the meeting while no business is pending; and if it is not thus taken up before adjournment, these minutes must be read at the following meeting before the reading of the later minutes. If it is desired to approved the minutes without having them read, it is necessary to suspend the rules for this purpose.
- A draft of the minutes of the preceding meeting can be sent to all members in advance, usually with the notice. In such a case, it is presumed that the members have used this opportunity to review them, and they are not read unless this is requested. Correction of them and approval, however, is handled in the usual way. It must be understood in such a case that the formal copy placed in the minute book contains all corrections that were made and that none of the many copies circulated to members and marked by them is authoritative. (see also p. 344)

When the next regular business session will not be held within a quarterly time interval (see p. 88), and the session does not last longer than one day, or in an organization in which there will be a change or replacement of a portion of the membership, the executive board or a committee appointed for the purpose should be authorized to approved the minutes. The fact that the

minutes are not then read for approval at the next meeting does not prevent a member from having a relevant excerpt read for information; nor does it prevent the assembly in such a case from making additional corrections, treating the minutes as having been previously approved (see third paragraph below).

In sessions lasting longer than one day, such as conventions, the minutes of meetings held the preceding day are read and approved by the convention at the beginning [page 458] of each day's business after the first (and minutes that have not been approved previously should be read before the final adjournment)- except as the convention may authorize the executive board or a committee to approve the minutes at a later time.

When the minutes are approved, the word Approved, with the secretary's initials and the date, should be written below them.

If the existence of an error or material omission in the minutes becomes reasonably established after their approval- even many years later- the minutes can then be corrected by means of the motion to Amend Something Previously Adopted (35), which requires a two-thirds vote, or a majority vote with notice, or the vote of a majority of the entire membership, or unanimous consent.

MINUTES TO BE PUBLISHED

When minutes are to be published, they should contain, in addition to the information described above, a list of the speakers on each side of every question, with an abstract or the text of each address, in which case they may be called "proceedings," "transactions," or the like. In such cases the secretary should have an assistant. When it is desired, as in some conventions, to publish the proceedings in full, the secretary's assistant should be a stenographic reporter or recording technician. The presiding officer should then take particular care that everyone to whom he assigns the floor is fully identified. Under these conditions it is usually necessary to require members to use a public address system. Reports of committees should be printed exactly as submitted, the minutes showing what action was taken by the assembly in regard to them; or they can be printed with all additions in italics and parts struck out enclosed in brackets, in which case a note to that effect should precede the report or resolution. [page 459]

Excerpts from NYS Not for Profit Law

§ 603. Meetings of members.

- (a) Meetings of members may be held at such place, within or without this state, as may be fixed by or under the by-laws or, if not so fixed, at the office of the corporation in this state.
- (b) A meeting of the members shall be held annually for the election of directors and the transaction of other business on a date fixed by or under the by-laws. Failure to hold the annual meeting on the date so fixed or to elect a sufficient number of directors to conduct the business of the corporation shall not work a forfeiture or give cause for dissolution of the corporation, except as provided in paragraph (a) of section 1102 (Judicial dissolution; petition by directors or members; petition in case of deadlock among directors or members.)
- (c) Special meetings of the members may be called by the board and by such person or persons as may be authorized by the certificate of incorporation or the by-laws. In any case, such meetings may be convened by the members entitled to cast ten per cent of the total number of votes entitled to be cast at such meeting, who may, in writing, demand the call of a special meeting specifying the date and month thereof, which shall not be less than two nor more than three months from the date of such written demand. The secretary of the corporation upon receiving the written demand shall promptly give notice of such meeting, or if he fails to do so within five business days thereafter, any member signing such demand may give such notice. The meeting shall be held at the place fixed in the by-laws or, if not so fixed, at the office of the corporation.
- (d) A corporation may provide in its certificate of incorporation or by-laws adopted by the members for the election of representatives or delegates, who, when assembled within or without the state as directed by the certificate of incorporation or the by-laws, shall have and may exercise all of the powers, rights and privileges of members at an annual meeting. When so exercising the powers, rights and privileges of members, such representatives or delegates shall be subject in all respects to the provisions of this chapter governing members.

Excerpts from NYS Not for Profit Law

§ 607. List or record of members at meetings.

A list or record of members entitled to vote, certified by the corporate officer responsible for its preparation or by a transfer agent, shall be produced at any meeting of members upon the request therefor of any member who has given written notice to the corporation that such request will be made at least ten days prior to such meeting. If the right to vote at any meeting is challenged, the inspectors of election, or the person presiding thereat, shall require such list or record of members to be produced as evidence of the right of the persons challenged to vote at such meeting, and all persons who appear from such list or record to be members entitled to vote thereat may vote at such meeting.

Excerpts from NYS Not for Profit Law

§ 621 Books and records; right of inspection; prima facie evidence.

- (a) Except as otherwise provided herein, every corporation shall keep, at the office of the corporation, correct and complete books and records of account and minutes of the proceedings of its members, board and executive committee, if any, and shall keep at such office or at the office of its transfer agent or registrar in this state, a list or record containing the names and addresses of all members, the class or classes of membership or capital certificates and the number of capital certificates held by each and the dates when they respectively became the holders of record thereof. A corporation may keep its books and records of account in an office of the corporation without the state, as specified in its certificate of incorporation. Any of the foregoing books, minutes and records may be in written form or in any other form capable of being converted into written form within a reasonable time.
- (b) Any person who shall have been a member of records of a corporation for at least six months immediately preceding his demand, or any person holding, or thereunto authorized in writing by the holders of, at least five percent of any class of the outstanding capital certificates, upon at least five days written demand shall have the right to examine in person or by agent or attorney, during usual business hours, its minutes of the proceedings of its members and list or record of members and to make extracts therefrom.
- (c) An inspection authorized by paragraph (b) may be denied to such member or other person upon his refusal to furnish to the corporation, its transfer agent or registrar an affidavit that such inspection is not desired and will not be used for a purpose which is in the interest of a business or object other than the business of the corporation and that he has not within five years given, sold or offered for sale any list or record of members of any domestic or foreign corporation or aided or abetted, or attempted or offered to aid or abet, any person in procuring any such list or record of members for any such purpose.
- (d) Upon refusal by the corporation or by an officer or agent of the corporation to permit an inspection of the minutes of the proceedings of its members or of the list or record of members, as herein provided, the person making the demand of inspection may apply to the supreme court in the judicial district where the office of the corporation is located, upon such notice as the court may direct, for an order directing the corporation, its officer or agent to show cause why an order should not be granted permitting such inspection by the applicant. Upon the return day of the order to show cause, the court shall hear the parties summarily, by affidavit or otherwise, and if it appears that the applicant is qualified and entitled to such inspection, the court shall grant an order compelling such inspection and awarding such further relief as to the court may seem just and proper.
- (e) Upon the written request of any person who shall have been a member of record for at least six months immediately preceding his request, or of any person holding, or thereunto authorized in writing by the holders of, at least five percent of any class of the outstanding capital certificates, the corporation shall give or mail to such member an annual balance sheet and profit and loss statement or a financial statement performing a

similar function for the preceding fiscal year, and, if any interim balance sheet or profit and loss or similar financial statement has been distributed to its members or otherwise made available to the public, the most recent such interim balance sheet or profit and loss or similar financial statement. The corporation shall be allowed a reasonable time to prepare such annual balance sheet and profit and loss or similar financial statement.

- (f) Nothing herein contained shall impair the power of courts to compel the production for examination of the books and records of a corporation.
- (g) The books and records specified in paragraph (a) shall be prima facie evidence of the facts therein stated in favor of the plaintiff in any action or special proceeding against such corporation or any of its officers, directors or members.
- (h) Nothing in this chapter shall require an employee organization certified or recognized for any collective negotiating unit of an employer pursuant to article fourteen of the civil service law to disclose the home address of any member or former member of such organization.

Sector Funds Reimbursement Procedures

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Quick Reference for Sector Funding & Reimbursement

- Other than the 12 routine union expenditures, prior approval is required before checks can be written. Routine union expenditures are:
 - 1) Telephone/Internet – Up to \$40 Telephone/ \$100 internet - per sector per month
 - 2) Postage
 - 3) Office Supplies - \$125 maximum / month – Order through Quill.com
 - 4) Sector Meetings – Minimum of 6 meetings annually
 - 5) Mileage - .545 cents / mile effective January 2018
 - 6) Parking / Tolls
 - 7) Lodging
 - 8) Per Diem - \$62 / overnight
 - 9) Bereavement - \$125 Floral –or- \$100 Charitable Donation –or- \$75 Fruit Basket
 - 10) Hospitalization - \$75 Floral –or- \$75 Fruit Basket for non-elective, in-patient procedure
 - 11) Member Memorial - \$150 Floral – Fruit Basket – Plaques – Shadow Box
 - 12) New Baby Award - \$25 gift card for birth / adoption of a member's baby

- When writing the check:
 - Two signatures are required
 - Do not sign a check written to yourself - have two other authorized signatories sign it
 - Never make checks payable to Cash
 - For each check written, be sure to have itemized receipt(s), phone bill if reimbursing phone charges, and/or expense vouchers signed by the member if (s)he was reimbursed for mileage
 - Fill in memo line with a short description of what the check was written for
 - Make a copy of the signed check and attach to corresponding receipt(s) / documentation

- Get a receipt that shows:
 - **Sales tax** was charged
 - **Details of purchase**
 - **Business name, address and phone number.** In the case of a hand-written receipt, have vendor write their business name, address & phone number or attach a business card.

- Do not make deposits into the sector checking account. All deposits should be forwarded to the Albany Office for processing.

- ❖ Submit a Monthly Sector Reimbursement Form each month with receipts and all other required documentation. All expenses must be submitted monthly and year-end expenditures must be submitted by January 3rd of the following year.
 - We recommend using the NYSCOPBA website to submit your sector's paperwork electronically at www.nyscopba.org/stewards or you may submit the documentation:
 - via email to AccountingStaff@nyscopba.org
 - via fax to (518) 426-1635
 - via regular US mail to: NYSCOPBA
102 Hackett Blvd
Albany, NY 12209

- ❖ We will review the reimbursement packet for fully documented expenses and credit your sector's account electronically. A sector statement will be sent once a month for your review and so we can address any questions or concerns.
If you have any questions about sector funding or reimbursement procedures, please feel free to call NYSCOPBA's Accounting Department at:

(518) 427-1551 or (888) 484-7279 Toby Hogan Ext 240 Sonya Babineau Ext 241 Nicole Pascuzzi Ext 249

Sector Funds

The sector bank account is to be used exclusively for authorized sector fund expenditures and reimbursements.

Sales Tax

NYSCOPBA is not exempt from paying sales tax. If you are paying for a purchase out of your sector's checkbook, you must include sales tax.

Please be sure sales tax is clearly indicated on your receipt

Although we are exempt from paying income tax, we must pay the sales tax on all purchases.

Sector Funding Procedures for Steward Changes

(i.e: new Chief Sector Steward and/or Sector Treasurer)

In the event there is a change in Chief Sector Steward, Sector Treasurer or other Stewards authorized to sign checks, NYSCOPBA's Accounting Department must be notified promptly.

The Sector Funding Agreement should be signed by the Chief Sector Steward and Treasurer, notarized and sent to NYSCOPBA's Accounting Department.

The Key Bank Business Non-Personal Signature Card form should be signed by all stewards authorized to sign sector checks (not just the new signatories) and sent to NYSCOPBA's Accounting Department.

New check signers can not sign checks until forms are completed and sent to the Accounting Department

Both of these forms are available in the back of this manual and on our website.

Ordering New Sector Checks

NYSCOPBA's Accounting Department will place the order for all sector checks. **All outstanding documentation must be submitted prior to receiving new checks.** When you are down to the last 25 checks in the checkbook, please contact Sonya Babineau at sbabineau@nyscopba.org or (518) 427-1551 ext 241. The order will be placed and the new checks will be mailed to you within two to three weeks.

Stale Checks

Any checks written but not cashed within 45 days will be voided.

Electronic Check Readers

If an original check is given back at the time of the purchase, you must forward it via US Mail to NYSCOPBA's Accounting Department.

- i.e. payment is put through a check reader at places such as Walmart and given back to the account holder at the time of purchase
-

Routine Union Expenditures

NYSCOPBA reimburses the sector for expenses that are incurred while conducting legitimate business for the organization. Documentation for each check written **must be submitted monthly** and year-end expenditures must be submitted by January 3rd of the following year. The following is a list of routine union expenditures:

See details of the routine union expenses on pages 5 – 8

- 1) Telephone/Internet – Up to \$40 Telephone/ \$100 internet - per sector per month
- 2) Postage
- 3) Office Supplies - \$125 maximum / month – Order through Quill.com
- 4) Sector Meetings – Minimum of 6 meetings annually
- 5) Mileage - .545 cents / mile effective January 2018
- 6) Parking / Tolls
- 7) Lodging
- 8) Per Diem - \$62 / overnight
- 9) Bereavement - \$125 Floral –or- \$100 Charitable Donation –or- \$75 Fruit Basket
- 10) Hospitalization - \$75 Floral –or- \$75 Fruit Basket for non-elective, in-patient procedure
- 11) Member Memorial - \$150 Floral – Fruit Basket – Plaques – Shadow Box
- 12) New Baby Award - \$25 Gift Card for birth / adoption of a member's baby

*****Any other expenditure requires a Purchase Requisition Form to be filled out. This must be submitted to the Accounting Department for approval prior to making the purchase*****

Purchase Requisitions

If you have a request that does not fall in any of the 12 routine union expenditure categories that are listed above, you will need to submit your request to the NYSCOPBA Treasurer for approval prior to writing the check. This may be done on a Purchase Requisition Form. Blank forms are available in the back of this manual and on our website.

Fill in the Purchase Requisition Form and do one of the following:

- Fax to (518) 426-1635
- Email to AccountingStaff@nyscopba.org
- Mail to NYSCOPBA
ATTN: Accounting Dept
102 Hackett Blvd
Albany NY 12209

It will be reviewed by the NYSCOPBA Treasurer. We will notify you of the approval or denial. Please let us know whether you want the reply via mail, phone, fax or e-mail.

REIMBURSING ROUTINE UNION EXPENSES:

1. Telephone / Internet:

➤ Telephone bills

NYSCOPBA will reimburse union-related business calls up to \$40 per month per sector for charges incurred on one cell phone line or one personal land line.

If the land line is located in the facility's union office, the above stated limit does not apply and the full amount due will be reimbursed.

It is the sector's responsibility to be sure that the facility phone is secured for use for union-related business only.

The sector should submit a Purchase Requisition if a phone is needed.

The sector should submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and attach the phone bill page showing the summarized charges.

➤ Internet bills

NYSCOPBA will reimburse up to \$100 on one internet bill per month per sector. In the case of an "all-in-one" bundle (ie: phone + internet + cable), reimbursement will be prorated to include only the internet portion.

The sector should submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and attach the internet bill as documentation.

2. Postage:

- NYSCOPBA will reimburse receipted postage expenses for union-related business. The sector can purchase the postage directly with a sector check and then submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and the itemized receipt(s).

3. Office Supplies:

This should **not** be reimbursed through the sector – Payments will be made directly from the NYSCOPBA Albany Office

- Sectors will use Quill.com **exclusively** for office supply purchases. Payments to Quill.com will be made directly from the NYSCOPBA Albany office. Each Sector will have one account to access for purchases up to \$125 per month.

If at any time additional supplies are needed above the \$125 per month limit, a purchase requisition form must be filled out and pre-authorization from the NYSCOPBA Executive Treasurer must be given to allow for the additional purchase.

Office supplies include, but are not limited to:

- pens, paper, ink for printer
- retirement medallions / nameplates for plaques in the QWL for retired members (maximum reimbursement is \$15 per member's plaque)

REIMBURSING ROUTINE UNION EXPENSES (Continued):

4. Sector meeting expenditures :

- NYSCOPBA will reimburse for receipted Union meeting expenses:

Sector meeting expenses should be consistent with the guidelines for refreshments provided to the general membership at a Union meeting.

Expensive meals at local restaurants are not in the spirit of this guideline.

The NYSCOPBA constitution calls for a minimum of 6 sector meetings annually.

The sector should make the purchase, then submit for reimbursement by including a signed copy of the check with the Monthly Sector Reimbursement Form and itemized receipt(s).

*****IMPORTANT REMINDERS*****

- ✓ **Sales Tax** - Please be sure sales tax is charged and noted on the receipt
- ✓ **Details of Purchase** - If the items on the receipt are unclear, write it on the back of the receipt
- ✓ **Vendor Information** - If a receipt does not show the company name, address and / or phone number, have the vendor write in on the receipt or attach a business card

5. Automobile mileage:

- NYSCOPBA will reimburse for mileage at the IRS standard mileage rate if a member utilizes his/her own personal vehicle for official union business.
 - "Official Union Business" means the member's presence is required for duties in his/her capacity as a steward.
 - Only one steward per meeting is eligible for mileage reimbursement. In addition, a steward is only eligible for reimbursement if the meeting is held on his / her day off.
 - Voluntary, routine attendance at membership meetings or other sector functions do not qualify for mileage reimbursement or any other type of reimbursement.

The member should submit a signed expense voucher and include the miles driven and the reason for the mileage (to where, for what).

The sector should then write a check to the member and submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and the member's signed expense voucher.

Make sure the member notifies your Vice-President before traveling for prior approval. This also facilitates your regional representative with the knowledge of possible situations where a member may need representation.

REIMBURSING ROUTINE UNION EXPENSES (Continued):

6. Parking & tolls:

- NYSOPBA will reimburse members who incur parking or toll expenditures while traveling on official union business. (Also see Automobile Mileage)
The Sector should write a check to the member and submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and the member's signed expense voucher with toll receipt(s) / EZ-Pass statement attached.

7. Lodging:

- NYSOPBA will reimburse lodging expenses when a member is on official union business and must stay overnight away from home.
The sector should write a check to the member and submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and the member's signed expense voucher with their lodging receipt attached.

8. Overnight Per Diem:

- NYSOPBA will reimburse a member \$62 per night if (s) he is on official union business and must stay overnight away from home.
The sector should write a check to the member and submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and the member's signed expense voucher with the lodging receipt attached.

9. Bereavement expenditures:

- NYSOPBA will reimburse for either a floral arrangement or a sympathy food basket or a charitable donation sent on behalf of a current member or Retiree Chapter member in the event that someone in their immediate family passes away. The choice of what to send will be made by the sector.

Immediate Family is defined as the member's spouse, child, step-child, parent, grandparent, brother, sister, aunt, uncle, parent-in-law, brother-in-law, sister-in-law, grandchild or any person living in the employee's household

Allowable expenditures are:

- **\$125** max, including all taxes and fees, for a **Floral Arrangement**
- **\$75** max, including all taxes and fees, for a **Fruit / Sympathy Basket**
- **\$100** max, for Charitable Donation
 - A charitable donation must be made payable directly to the organization and not to an individual (i.e.: Cancer Society, American Heart Association, a volunteer ambulance corps, etc.)

The sector will make the purchase or send the charitable donation and then will be reimbursed for properly documented bereavement expenses up to the above stated limits. The sector should submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and a receipt showing:

- What was purchased
- Date
- On behalf of what member
- The relationship to the deceased

The sector may also choose to purchase sympathy cards to mail to members and submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and itemized receipt(s).

REIMBURSING ROUTINE UNION EXPENSES (Continued):

10. Hospitalized Member:

- In the event a member is hospitalized for an in-patient non-elective procedure, the sector may send a floral arrangement or fruit basket. The limit on this expenditure is \$75, including all taxes and fees.

The sector will make the purchase and then will be reimbursed for properly documented expenses up to the above stated limit. The sector should submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and a receipt notating it was for a hospitalized member and show:

- What was purchased
- Date
- On behalf of what member

11. NYSCOPBA member memorial expenditures:

- In the event that a current member or Retiree Chapter member passes away, the sector may send a floral arrangement or fruit basket or donation on behalf of the deceased. The limit on this expenditure is \$150, including all taxes and fees.

The sector may also purchase a memorial plaque or shadowbox for an additional \$150, including all taxes and fees.

The sector will make the purchase and will be reimbursed for properly documented expenses up to the above stated limits. The sector should submit for reimbursement by including a copy of the signed check with the Monthly Sector Reimbursement Form and a receipt showing:

- What was purchased
- Date
- On behalf of what member

12. New Baby Award:

This should **not** be reimbursed through the sector - The gift card will be distributed directly from the NYSCOPBA Albany Office

- In the event a member or member's spouse has a new baby or adopts a child, a \$25 gift card is available
To be eligible, the member must be in good standing.

A New Baby Award application must be filled out by the member within one year of the birth or adoption of the baby and the CSS or Treasurer should verify the birth using the child's birth certificate or birth announcement.

The sector should submit the completed New Baby Award application to the NYSCOPBA Accounting Department. Upon approval of the application, the gift card will be mailed directly from the NYSCOPBA Albany Office to the member's mailing address.

Special Sector Funding

To apply for this program, the Chief Sector Steward or Sector Treasurer should submit a **Special Sector Funding Motion** (motion sheet available on the next page of this manual and on our website) to NYSCOPBA's Accounting Department, Attn: Sonya Babineau.

Special Sector Funding money is for special projects which benefit that sector's members and / or their community
(i.e.: Retirement Parties, Summer Barbecues, Christmas Parties, Sponsorships, Community Projects, Charitable Donations, etc.)

- ❖ Each sector is allotted \$34 per member per year. This money does not come out of routine sector funding.
- ❖ Special Sector Funding money cannot be spent on political endorsements or illegal or unlawful activity.
- ❖ Each sector's allotted funds are determined once annually. The membership number comes from the State Comptroller's Office. The applications may be submitted at any time during the year.
- ❖ A Special Sector Funding Motion must be submitted in a timely manner to NYSCOPBA's Accounting Department via email, mail, fax, or online using NYSCOPBA's website.
- ❖ A copy of the meeting minutes authorizing the use of the funds for the stated purpose should be attached to the motion sheet.
 - The motion must follow parliamentary procedure (i.e.: Robert's Rules of Order) and is required to show:
 - 1) by whom the motion was made
 - 2) by whom the motion was seconded
 - 3) The dollar amount
 - 4) the results of the vote tally
 - If a quorum (10% of the sector membership) was not met the minutes must be posted for 30 days and approved at the next month's meeting.
(The minutes from both months would need to be submitted in this case)
- ❖ The Special Sector funds will be electronically deposited into the sector bank account and an email confirmation will be sent to the Sector Treasurer and Chief notifying them when they may write the check.
- ❖ **Receipts from Special Sector Funding must be submitted to NYSCOPBA's Accounting Department, Attn: Sonya Babineau, within two weeks following the event. Any unspent monies will be refunded electronically back into the account.**



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd., Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Special Sector Funding Motion

Motion:

FACILITY:

Maker: _____ **Seconded by:** _____ **Amount:** _____ **Date:** _____

How Many Members Voted: Yes ____ No ____ Abstain ____

Did motion pass? Yes ____ No ____

If Quorum was not met the minutes must be posted for 30 days

❖ *10% of the sector membership is required to constitute a quorum. In the event that a quorum does not exist the meeting minutes should be posted for 30 days and approved at the next month's meeting.*

2nd meeting date _____ - Did motion pass? Yes ____ No ____

Attach this motion sheet to monthly minutes and submit in a timely manner to the NYSCOPBA Accounting Department via email, fax, mail or online at NYSCOPBA website.

Catastrophic Assistance

To apply for this assistance, a Sector Steward should submit a **Catastrophic Application** (form available in the back of this manual and on our website) to their regional Vice President or Business Agent within one year of the catastrophic event.

NYSCOPBA has approved a Catastrophic Program to assist members and their immediate families in their time of need. This program is available to all active, in good standing, members of the Bargaining Unit, excluding retirees.

Qualified recipients will receive \$750 for assistance out of the established fund.

To be eligible, member's request for Catastrophic Assistance must meet one of the following criteria:

- 1) Severe damage, with documentation, to primary residence
- 2) Terminal illness or death of member, member's spouse, domestic partner or child

In Addition:

- Any second-time request requires Executive Board approval
- Limit two applications for any illness
- Applications must be submitted within one year of the catastrophic event

The Catastrophic Application must be completed by an elected Steward from the facility in which the member works within one year of the catastrophic event and forwarded to their Regional Vice President or Business Agent for approval.

The Catastrophic funds will be electronically deposited into the Sector bank account and an email confirmation will be sent to the Sector Treasurer and Chief to notify them when they may write the check.

Honor Guard / Color Guard Expenses

NYSCOPBA appreciates its members who are involved in the Honor Guard / Color Guard which covers funeral services for NYSCOPBA members. As such, NYSCOPBA will reimburse the sector for refreshments provided to the Honor Guard / Color Guard members.

The sector should write the check and then include a copy of the signed check with their Monthly Sector Reimbursement Form and itemized receipt(s).

This expense should be listed under the Bereavement category on the Reimbursement Form, and the sector should note "color guard refreshments for (member's name) funeral/wake".

OTHER PUBLIC RELATIONS PROGRAMS

Health Fair/Employment Fairs

- Money is available to sectors for flu shots, information booths at Health Fairs, etc.
-

Membership Retirement Awards

- A Sector Steward should send a fully completed Retirement Application to Bill Naylor by fax or mail. For the Retirement application and guidelines please visit the NYSCOPBA website.
-

Valor Awards

- This program has been established to recognize members who have exhibited excellence above and beyond the call of duty, both on and off the job. Stewards should work with their Regional Vice President to ensure recognition at an Executive Assembly.
-

Scholarships

- A one-time Scholarship Award is available for dependents of NYSCOPBA members who meet the criteria. For the Scholarship application and guidelines please visit the NYSCOPBA website.
-

Regional Public Relations

- Funds are available through each Region for Public Relations. A Sector Steward should submit the request in writing to their Regional Vice President for approval prior to issuing funds.
-

Sector Level Public Relations Donation Form

- A Sector Steward should submit this form to notify NYSCOPBA's PR Dept. of any donations being made at the sector level. It can be submitted on the website or via fax, email or mail, Attention: James Miller.
-

SUBMITTING FOR SECTOR REIMBURSEMENT

Once a month the Sector Treasurer or Chief Sector Steward must submit a Monthly Sector Reimbursement Form with all required documentation to NYSCOPBA's Accounting Department.

We recommend submitting documentation using the
NYSCOPBA website:

www.nyscopba.org/stewards

Once we receive your documentation via electronic submission, you will receive email confirmation. If you do not get confirmation within 72 hours please contact Sonya Babineau at sbabineau@nyscopba.org or 518-427-1551 Ext 241

Or you may choose to send the documentation:

- via email to AccountingStaff@nyscopba.org
- via fax to (518) 426-1635
- via regular US mail to:
NYSCOPBA
102 Hackett Blvd
Albany, NY 12209

- ❖ If you choose to submit your sector reimbursement online using the NYSCOPBA website, complete the online form and attach all required documentation by scanning and then uploading the electronic file where indicated.
- ❖ If you choose one of the other options to submit your sector reimbursement paperwork, complete the Monthly Sector Reimbursement Form by filling in one check per column – Put the check number in top box and the check amount in bottom box. (An example is shown on page 19 of this manual)
- ❖ If an original check is given back at the time of the purchase, you must forward it via US Mail to NYSCOPBA's Accounting Department.
 - i.e. payment is put through a check reader at places such as Walmart and given back to the account holder at the time of purchase
- ❖ Attach all required documentation for each check written, along with a copy of the signed check
- ❖ A copy of each document submitted should be kept for your records. If sending electronically, retain the documentation for at least 1 year after submission.
- ❖ We will review the documents and process the reimbursement for all fully documented expenses. We will credit your account electronically and notify you of any additional information needed.

Dues Refund for Active Military Members

*****This should not be reimbursed through the sector*****

NYSCOPBA will reimburse the union dues of members who are actively deployed. To be reimbursed, members who are actively deployed should submit copies of their pay stubs to NYSCOPBA's Accounting Department with a To/From listing date of active deployment and requesting a refund of the dues. A check will be sent to the member directly from the NYSCOPBA Albany Office.

Steward Training Reimbursement

*****This should not be reimbursed through the sector*****

Stewards are eligible to be reimbursed \$100 per day for Steward Training.

NYSCOPBA offers several training dates at once in order to accommodate stewards' varied schedules and RDO's.

To be reimbursed, a Steward Training reimbursement form should be completed and signed by the member and submitted to NYSCOPBA's Treasurer on the day of training.

Executive Assembly Expenses

*****Executive Assembly expenses should not be reimbursed through the sector*****

Per the Constitution, the Executive Assembly is made up of the Executive Board and (acting) Chief Sector Stewards representing each of the Sectors; therefore, only those members are due reimbursement for expenses related to the EA.

Other members may attend the Executive Assembly but their expenses are not reimbursable. This was approved at the January 2001 Executive Assembly.

Policy for Documents

Any requests for NYSCOPBA's financial records that are to be reviewed or requested are to be put in writing and only reviewed at NYSCOPBA Headquarters located in Albany, NY. All requests for documents must stipulate to the Treasurer which documents are being reviewed.

License Agreements

Any equipment purchased with NYSCOPBA's funds is NYSCOPBA property. As such, we require that the Chief Sector Steward, as representative of the NYSCOPBA sector, sign a License Agreement.

The License Agreement is a form that states that the equipment belongs to NYSCOPBA and is needed for use by the Sector. It is expected that, except for routine wear and tear, the equipment will be reasonably maintained. NYSCOPBA recognizes when the equipment is located in the sector's Union Office, the Chief Sector Steward cannot constantly monitor it. However, NYSCOPBA does expect the Chief Sector Steward takes reasonable precautions to ensure the integrity of the equipment, to report any problems to NYSCOPBA and to return it to NYSCOPBA, if and when it is requested.



New York State Correctional Officers & Police Benevolent Association, Inc

Veterans Committee
Mid-Hudson Satellite Office
21 North Plank Road Newburgh, NY 12250
Office: 845-563-8704
Fax: 845-569-9077
Veterans Committee Chairman: Joe Porcaro
Cell: 518-441-2036



August 17, 2006

VETERANS COMMITTEE POLICY

GRAVE MARKERS: The Veterans Committee has created grave markers to be presented to the families of NYSCOPBA members who are veterans of the Armed Forces of the United States and pass away during their active NYSCOPBA career.

Procedure for requesting grave markers:

1. The Chief Sector Steward of the qualifying member's sector will verify the member was a veteran by checking with facility records or by obtaining a copy of the member's DD214 from his/her family.
2. The Chief Sector Steward submits a request, in writing, to the Regional Vice President.
3. The Chief Sector Steward or his/her designee will present the grave marker to the deceased member's family prior to funeral services. If this is not possible, the Regional Vice President will mail the grave marker to the deceased member's family to the address provided by the sector.
4. The Regional Vice President will forward a copy of all verified requests for grave markers to the Veterans Committee at the above address.

NOTE: the Veterans Committee wishes to extend this benefit to any member's family for any veteran member who has passed away since the inception of NYSCOPBA. Verification of service for these members will require receipt of a copy of the deceased member's DD214 which the Chief Sector Steward may obtain from the member's family. The DD214 should be forwarded to the Regional Vice President, along with the current mailing address of the family receiving the marker.



FORMS

These are the forms to use for Sector Funding and Reimbursements.

Please throw out the old form copies you may have since some have been updated.

These forms are also available on NYSCOPBA's website on the Stewards page as well as the Treasurers page. Go to www.nyscopba.org/stewards and the list is under Treasury Forms.

- Expense Voucher
- Monthly Sector Reimbursement Form
- Example of Completed Reimbursement Form
- Purchase Requisition Form
- Steward Training Reimbursement Form
- Special Sector Funding Motion
- Thank You Letter Request Form
- Sector Funding Agreement
- KeyBank Business Non-Personal Signature Card
- New Baby Award Application
- Catastrophic Policy
- Catastrophic Assistance Application
- Sector Public Relations Donation Form (to notify NYSCOPBA's P.R. Dept.)



**New York State Correctional Officers
& Police Benevolent Association**
 102 Hackett Blvd. - Albany, NY 12209
 (518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



MONTHLY SECTOR REIMBURSEMENT FORM

(NOTE: Submit Receipts With This Form)

SECTOR CHECK NUMBER	Check #									
BEREAVEMENT										
HOSPITALIZATION										
MILEAGE (use IRS Standard Mileage Rate)										
PARKING/TOLLS										
PER DIEM										
POSTAGE										
SECTOR MEETING EXPENSES										
PHONE (\$40 max per month) / INTERNET (\$100 max per month)										
OTHER (Give explanation in space provided below)										
SECTOR CHECK TOTAL										

NOTES: (use this space to give details of expenses not included in the above categories. (i.e. Special Sector Funding))

Name: _____ **Signature:** _____ **Sector:** _____ **Date:** _____
 (Treasurer or Chief Sector Steward)



**New York State Correctional Officers
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(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



MONTHLY SECTOR REIMBURSEMENT FORM

(NOTE: Submit Receipts With This Form)

SECTOR CHECK NUMBER	Check # 856	Check # 857	Check # 858	Check # 859	Check # 860	Check # 861	Check # 862	Check # 863	Check #	Check #
BEREAVEMENT	\$125									
HOSPITALIZATION	\$75									
MILEAGE (use IRS Standard Mileage Rate)	**Attach Detailed					\$107				
PARKING/TOLLS	Invoice or Receipt**					\$5.50				
PER DIEM						**Attach Signed				
POSTAGE					\$9.60	Expense Voucher & Toll Receipt(s)**				
SECTOR MEETING EXPENSES		\$256.77			**Attach Itemized Receipt**			**Attach Internet Bill**		
PHONE (\$40 max per month) / INTERNET (\$100 max per month)	**Attach Itemized Receipt**	**Give	\$40 **Attach Phone Bill**			**Give	\$100			
OTHER (Give explanation in space provided below)			Explanation Below** \$150			Explanation Below** \$750				
SECTOR CHECK TOTAL	\$200	\$256.77	\$150	\$40	\$9.60	\$112.50	\$750	\$100		

NOTES: (use this space to give details of expenses not included in the above categories. (i.e. Special Sector Funding))

CHECK 858 - SSF - LOCAL FOOD PANTRY (MOTION DATED JANUARY 17, 2017)

CHECK 862 - CATASTROPHIC - ANNE SMITH

Name: SAM JONES
(Treasurer or Chief Sector Steward)

Signature: *Sam Jones*

Sector: FACILITY NAME

Date: TODAY'S DATE



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd., Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Special Sector Funding Motion

Motion:

FACILITY: _____

Maker: _____ **Seconded by:** _____ **Amount:** _____ **Date:** _____

How Many Members Voted: Yes ____ No ____ Abstain ____

Did motion pass? Yes ____ No ____

If Quorum was not met the minutes must be posted for 30 days
❖ *10% of the sector membership is required to constitute a quorum. In the event that a quorum does not exist the meeting minutes should be posted for 30 days and approved at the next month's meeting.*

2nd meeting date _____ Did motion pass? Yes ____ No ____

Attach this motion sheet to monthly minutes and submit in a timely manner to the NYSCOPBA Accounting Department via email, fax, mail or online at NYSCOPBA website.



New York State Correctional Officers
& Police Benevolent Association, Inc.
102 Hackett Boulevard - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



ACKNOWLEDGMENT REQUEST FORM

Today's Date: _____

Recipient

Organization Name: _____

Address: _____

To Whom It May Concern:

Enclosed is a check in the amount of \$ _____ made payable to

_____ for

(reason for donation / sponsorship)

Please send a Letter of Acknowledgment* to:

New York State Correctional Officers & PBA, Inc.

Facility: _____

Name: _____

Address: _____

City: _____

State / Zip Code: _____

Additional Notes:

(*Acknowledgment letters must be written on the letterhead of the organization the funds were intended for)



**New York State Correctional Officers
& Police Benevolent Association**

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 ext 240 www.nyscopba.org thogan@nyscopba.org



When there is a change in Chief Sector Steward or Sector Treasurer, this form must be completed and notarized. Please send completed forms to the Albany Office, Attention Accounting. If you have any questions or if you need a copy of the Sector Funds Reimbursement Procedure Manual, please contact us.

SECTOR FUNDING AGREEMENT

We, the undersigned, in recognizing our responsibility to the membership of the Association, agree that all funds in our Sector Treasury will be expended on legitimate union activity. The following is a list of legitimate union expenditures in accordance with the Central Treasury Funding Policy. The Sector Funds Reimbursement Procedures gives the details of these expenditures and we acknowledge receipt of the procedures booklet.

- 1) Telephone/Internet – Up to \$40 Telephone/ \$100 internet - per sector per month
- 2) Postage
- 3) Office Supplies - \$125 maximum / month – Order through Quill.com
- 4) Sector Meetings – Minimum of 6 meetings annually
- 5) Mileage - .545 cents / mile effective January 2018
- 6) Parking / Tolls
- 7) Lodging
- 8) Per Diem - \$62 / overnight
- 9) Bereavement - \$125 Floral –or- \$100 Charitable Donation –or- \$75 Fruit Basket
- 10) Hospitalization - \$75 Floral –or- \$75 Fruit Basket for non-elective, in-patient procedure
- 11) Member Memorial - \$150 Floral – Fruit Basket – Plaques – Shadow Box
- 12) New Baby Award - \$25 Gift Card for birth / adoption of a member’s baby

All checks drawn from the Sector checking account will require **two signatures**. The signature of the Chief Sector Steward and the Sector Treasurer must be listed on the bank signature card; Other Stewards may be added as additional signatories. A copy of the bank signature card designating signatories will be forwarded to the NYSCOPBA Treasurer any time changes are made. Further, we understand that in order to be reimbursed by the Association for such expenditures, we must submit a Sector Reimbursement paperwork monthly with all documentation, including itemized receipts, to the NYSCOPBA Treasurer.

CHIEF SECTOR STEWARD

SECTOR TREASURER

ADDRESS

ADDRESS

TELEPHONE NUMBER

TELEPHONE NUMBER

NOTARY PUBLIC

SECTOR NAME

Legal Title of Account NEW YORK STATE CORRECTIONAL OFFICERS & POLICE BENEVOLENT ASSOCIATION, INC.				
SECTOR MASTER CHECKING			Status <input checked="" type="checkbox"/> C - Corporation <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Organization/Association <input type="checkbox"/> Limited Liability Company <small>(<input type="checkbox"/> C - Corporation, <input type="checkbox"/> S - Corporation, <input type="checkbox"/> P - Partnership)</small>	
Principal Business Address 102 HACKETT BLVD				
City ALBANY	State NEW YORK	Zip Code 12209	Telephone No. (518) 427-1551	<input checked="" type="checkbox"/> Account Number XXXXXXXX4015
Statement Mailing Address SAME				Sector Name: HOP#
City	State	Zip Code	Telephone No.	<input type="checkbox"/> New Signature Card <input type="checkbox"/> Replace previous Signature Card
Designated Signer's Name *	US Citizen (Y/N)	Title	TIN or SSN	Signature

* If this entity has additional Designated Signers enter Signer's information on page 2 and check here

By signing below, the client listed above ("Client") authorizes KeyBank National Association ("KeyBank"), at its discretion, to open one or more business or non-personal accounts owned by the Client with the same Account Title listed above and with the same Designated Signers listed above, and upon receipt of electronic, written or oral instructions from the Client without obtaining an additional Signature Card ("Account" or "Accounts"). Accounts opened hereunder are listed above and on Exhibit A attached hereto and made a part hereof, as such Exhibit may be amended or supplemented by the Client from time to time. Addition of a new account to Exhibit A shall be effective only upon receipt by KeyBank of a new Exhibit A in a form acceptable to KeyBank in its sole discretion. The Client acknowledges and agrees that all Accounts opened under this Signature Card are governed by the terms and conditions of the Deposit Account Agreement and Funds Availability Policy ("Agreement") and Disclosures governing the Accounts. KeyBank may change the Agreement at any time. By signing below, Client acknowledges receipt of the Agreement and Disclosures.

The Client authorizes KeyBank to operate all current and future Accounts opened under this Signature Card. The authority to operate each Account includes: (i) to act upon instructions from any of the designated signers to deposit, withdraw or transfer funds to or from any other accounts at the Bank when opening new accounts; (ii) to recognize and honor the signature of any of the designated signers on checks (if withdrawal by check is permitted) and withdrawal slips and honor any other electronic, written or oral requests for withdrawals or transfers of funds, including transfers to KeyBank or to third parties; and (iii) to act upon instructions from any Designated Signer for the transaction of any business on any Accounts covered by this Signature Card. KeyBank may rely on this authorization for the Accounts opened under this Signature Card until KeyBank receives written notice revoking the authorization and has reasonable time to act upon it. Until such notice is actually received, the authority conferred herein to the Designated Signers noted below shall remain in full force and effect and KeyBank shall be indemnified and saved harmless from any loss suffered or liability incurred by it in pursuance of this Authorization.

Attention New Customer: The information provided by the Client to open a new Account is subject to review and verification. KeyBank reserves the right to close the Account in the event KeyBank is unable to verify, to its satisfaction, the information that Client has provided.

The undersigned certifies that the above are the true and genuine signatures of authorized signer(s) with their respective title, authorized to sign for the Entity. Under penalties of perjury, the undersigned certifies that (1) the number shown on this form is the Entity's correct taxpayer or employer identification number (or the Entity is waiting for a number to be issued), and (2) the Entity is not subject to backup withholding because: (a) the Entity is exempt from backup withholding, or (b) the Entity has not been notified by the Internal Revenue Service that it is subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified the Entity that it is no longer subject to backup withholding, and 3) I am a U.S. citizen or other U.S. person (defined below).

- Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:
- An individual who is a U.S. citizen or U.S. resident alien.
 - A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States.
 - An estate (other than a foreign estate), or
 - A domestic trust (as defined in Regulations section 301.7701-7).

The undersigned must cross out item (2) above if the Entity has been notified by the IRS that it is currently subject to backup withholding because of underreporting interest or dividends on its tax return.

Tax Identification No. _____ Title for Legal Owner of TIN _____

Refer to the list of payees exempt from backup withholding and for which no information reporting is required.
 If this Entity is exempt from backup withholding and information reporting under IRS regulations, enter your correct TIN in the previous section and check here:
 If you are a foreign person, cross out above certification section and U.S. Person on the line under your signature below. Complete the appropriate Form W-8.



**New York State Correctional Officers
& Police Benevolent Association**
 102 Hackett Blvd - Albany, NY 12209
 (518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



New Baby Award Application

In the event a member or member's spouse has a new baby or adopts a child, a \$25 gift card will be awarded. To be eligible, the member must be in good standing. In order to receive the gift card, the member should complete the application within one year of the birth or adoption of the child and present a copy of the child's birth certificate or birth announcement to the facility Chief or Treasurer.

Member / Child Information
(To be filled in by the Member)

Member's Name _____

Facility _____

Child's Name _____

Child's Date of Birth _____

Was this child adopted? Yes_____ No_____ If yes, Date of Adoption was:_____

I am requesting a \$25 New Baby Award for the birth / adoption of my child
Applications must be submitted within one year of the birth / adoption of this child

By signing below, I verify that the above information is valid and that I have not previously received a New Baby Award from NYSCOPBA for this child.

Member's Signature: _____ Date: _____

Mailing Address: _____

SECTOR INFORMATION

(to be filled in by Chief Sector Steward or Treasurer)

By signing here, I verify that the above information is correct and the birth / adoption has been verified using the child's birth certificate.

Steward Completing Form _____ / _____
 (Print) (Sign)

****Send the completed application to the Albany Office by either by email, fax or mail****
(The \$25 gift card will be sent directly from the NYSCOPBA Albany office to the member's mailing address)

CATASTROPHIC POLICY

NYSCOPBA has approved a Catastrophic Program to assist members and their immediate families in their time of need.

Qualified recipients will receive \$750 out of the established fund.

In order to qualify for this assistance:

1. A member's request for Catastrophic Assistance must be submitted by an elected steward from the facility in which the member works and forwarded to their regional Vice President or Business Agent for approval.
2. A member's request for Catastrophic Assistance must meet one of the following criteria:
 - Severe damage, with documentation, to primary residence
 - Member, member's spouse, domestic partner or child with terminal illness
 - Death of the member, member's spouse, domestic partner or child

In addition:

- Any second-time request requires Executive Board approval
- Limit of two applications for any illness
- Applications must be submitted within one year of the catastrophic event

This program is available to all active, in good standing, members of the Bargaining Unit, excluding retirees.



New York State Correctional Officers & Police Benevolent Association

102 Hackett Blvd - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Catastrophic Assistance Application

(\$750 available for active members of the Bargaining Unit, in good standing, excluding retirees, who meet the criteria and have the application submitted within one year of the catastrophic event)

Date: _____

Recipient's Name: _____

Recipient's Home Phone #: (_____) _____ - _____

After this is approved, the Sector will be notified when the authorized local Sector representatives can write the check. (If for a Sector without a bank account, the check will be processed directly from the Albany office when approved.)

Check should be written payable to: _____

And mailed to this address: _____

Current Facility/Sector: _____ Job Title: _____

Reason for Application: (Must meet one of the criteria: severe damage with documentation to primary residence; terminal illness or death of member, spouse, domestic partner or child)

REFERRING PERSON INFORMATION

Steward Completing Form _____ / _____
(Print) (Sign)

Vice President / Business Agent Approval _____ / _____
(Print) (Sign)

If 2nd request, date of Executive Board approval (motion attached) _____

*Limit two applications for any illness

*Applications must be submitted within one year of the catastrophic event



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Sector Public Relations Donation Form

Sector: _____ Region: _____ Steward: _____

Phone: _____ Email: _____

Date: _____ Amount: _____

Organization Donation is for: _____

501c3?
(IRS Designated Charity)

Address of organization: _____

Contact Information (of requesting organization):

Name: _____

Title: _____

Phone: _____

Email: _____

Purpose of NYSCOPBA funds requested: _____

Is there an event associated with this donation? Yes No

Date and Time of event: _____

Media Coverage for event? Yes No If yes, Contact Info: _____

Send form to NYSCOPBA Public Relations, 102 Hackett Blvd. Albany NY 12209, fax to 518.426.1635 or email
jmiller@nyscopba.org. Public Relations Director Jim Miller-518.427.1551 x 230 or 518.469.0379



New York State Correctional Officers & Police Benevolent Association, Inc.



Veterans Committee
Mid-Hudson Satellite Office
21 North Plank Road Newburgh, NY 12250
Office: 845-563-8704
Fax: 845-569-9077
Veterans Committee Chairman: Joe Porcaro
Cell: 518-441-2036

August 17, 2009

VETERANS COMMITTEE POLICY

GRAVE MARKERS: The Veterans Committee has created grave markers to be presented to the families of NYSCOPBA members who are veterans of the Armed Forces of the United States and are deceased during their active NYSCOPBA career.

Procedure for requesting grave markers:

1. The Chief Sector Steward of the qualifying member's sector will verify the member was a veteran by checking with facility records or by obtaining a copy of the member's DD214 from his/her family.
2. The Chief Sector Steward submits a request, in writing, to the Regional Vice President.
3. The Chief Sector Steward or his/her designee will present the grave marker to the deceased member's family prior to funeral services. If this is not possible, the Regional Vice President will mail the grave marker to the deceased member's family to the address provided by the sector.
4. The Regional Vice President will forward a copy of all verified requests for grave markers to the Veterans Committee at the above address.

NOTE: the Veterans Committee wishes to extend this benefit to any member's family for any veteran member who has deceased since the inception of NYSCOPBA. Verification of service for these members will require receipt of a copy of the deceased member's DD214 which the Chief Sector Steward may obtain from the member's family. The DD214 should be forwarded to the Regional Vice President along with the current mailing address for the family receiving the marker.



MOTION SHEET

Motion:

Any active member of the military who is not receiving supplemental pay have NYSCOPBA waive there union dues.

Motion Made by:

Larry Flanagan
Shawangunk

Motion Seconded by:

Gary Dahlman
Sullivan

Motion **Passed**/Defeated:

Unanimous

Date:

April 2, 2002

MOTION SHEET

Motion:

NYSCOPBA Retirement Award

NYSCOPBA's members who purchase their military time for retirement will be paid \$10.00 per year for service time purchased along with there State service at the time.

-Reasons for motion- at this time members who purchase there military for retirement are not being paid for this time in our NYSCOPBA retirement award, which is \$10.00 for every year of State service.

Motion Made by:

Tom Fleming
Camp Georgetown

Motion Seconded by:

Donn Rowe
Hale Creek

Motion **Passed**/Defeated:

Unanimous

Date:

April 2, 2002

MOTION SHEET

Motion:

That NYSCOPBA create a Veteran's Committee for each facility on a voluntary basis and a line of communication be formed for each facility and the Albany-based Veteran's Committee.

Motion Made by:

Name: Ambrosine Phillips

Sector: Wende

Motion Seconded by:

Name: Charles Massara

Sector: SSA

Motion Passed/Defeated:

PASSED/UNANIMOUSLY

Date:

September 1, 2000

Motion was made on April 25, 2000 at the Executive Assembly meeting held in Saratoga, New York.

Note: The above motion is verbatim as submitted in writing by the maker.



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



NYSCOPBA Dependent Scholarship Policy

Current NYSCOPBA members' and retiree chapter members' dependents are eligible to apply for a one-time \$600.00 scholarship for college education. The dependent must be a High School senior or full-time (at least 12 credit hours) student at an accredited two or four year college or university and has not previously received a scholarship from NYSCOPBA.

Procedure

Eligible students will need to complete a Scholarship Application. The application is available at www.nyscopba.org/memberbenefits and may be completed and submitted online or downloaded and mailed to NYSCOPBA headquarters. Requests for an application may also be made by contacting 518-427-1551. The application will determine eligibility and will encumber the award. Scholarship funds will only be sent to dependent student upon completion of the first college semester of at least 12 credit hours with a grade 'C' or better.

For High School Students:

Applications received BEFORE APRIL 15 of eligible applicants will have a certificate of award sent to their respective High School. Only applications received prior to April 15 will have a certificate sent to the school due to processing time. Upon request, a certificate may be mailed directly to the student after the April 15 deadline if desired.

To Receive the Scholarship

Eligible dependents that have a Scholarship Award Application on file must submit a copy of the grades of their college semester of at least 12 credit hours, each class receiving a 'C' grade or better to NYSCOPBA headquarters. To ensure proper credit, the transcript must show the Institution name and the name of the student. Submission of grades may be uploaded and submitted online through our secure website portal. Mailed or faxed copies will be accepted as well. Upon verification of eligibility, the \$600.00 award will be sent to the dependent's address listed on the application.

MOTION SHEET

Motion:

To withdraw the May 1st deadline for scholarship applications.

Motion Made by: John Telisky

Seconded by: _____

Motion Passed/Defeated: unanimous

Date: August 8, 2012

NYSCOPBA Public Information/Media Policy

Role of the Media

A well informed public is essential to the existence of our democratic nation. To effectively exercise their duties as citizens, members of the public must be aware of current events that exist. A free press, by supplying this needed information and promoting a medium for expression, makes it possible for citizens to influence the manner in which our government provides service.

Good media relations are an important part of any agencies' community relations activities. As a majority of the public has little or no contact with NYSCOBPA members, their attitudes and perceptions of the organization are greatly influenced by information obtained through the media. Positive publicity generates positive opinions. The probability of obtaining positive publicity is strengthened when relations with the media are good.

It is necessary to recognize that NYSCOBPA matters are also matters that will concern the public. The purpose of this policy is to promote free flow of information to all the news media.

The policy of NYSCOPBA shall be to maintain a relationship with the members of the news media that is built on trust, cooperation and mutual respect, and one that will generate a free flow of information between NYSCOPBA and the news media.

Media DEFINED

The term media shall include the following:

1. Newspapers and Magazines
2. Wire Services
3. Internet Services
4. Blogs
5. Television Stations
6. Social Media – Facebook & Twitter

7. Other bona fide news gathering/disseminating agencies
8. Radio Stations
9. Newsletters

Media Releases

The public information and news media relations function shall be coordinated by the Director of Public Relations or specified designee. Other members of NYSCOPBA should be encouraged to advise the DPR of new programs, outstanding achievements, current developments, charitable endeavors and any investigative developments likely to prompt media attention and/or any newsworthy information from their respective areas or responsibility that will assist the DPR or designee.

The DPR or designee shall be responsible for, but not limited to, the following:

1. The release of any information affecting the organization; e.g. – statements concerning policy, major incidents, etc.
2. Perform duties to assist members in handling media relation encounters
3. Serve as the official liaison between members of the NYSCOPBA and the news media
4. Monitor NYSCOPBA's release of information to the media
5. Monitor and maintain all social media sites
6. Serve as the coordinator for all community relations
7. Be aware of deadline times of respective news media and to accommodate these representatives as is practical

8. Issue press releases concerning any information of interest to the public
9. Be available non business hours to coordinate any media related activities

Responsibility for the Release of Information

The DPR or designee should ensure that any information which may be released to the media should be:

1. Accurate
2. Contain as many facts and details as possible
3. Does not pose a security threat to the members involved
4. Timely if possible at all times

Notification of Director of Public Relations or Designee

Responsibility for planning, developing, writing and distributing news releases and articles about programs, sponsorships and activities of NYSCOBPA rests with the DPR or designee.

Each NYSCOPBA region should have a designated member that is responsible for informing the DPR or designee of all activities in that region. Preferably each work site should have a designated member that will identify news related activities in their work place and coordinate with the DPR or designee to release that information to the news media when appropriate .

That notification should be communicated through phone, email or other timely communication on a consistent basis.

MOTION SHEET

Motion:

To schedule the E.A. meetings for the rest of 2002. All meetings will be on a Tuesday, Wednesday, Thursday, not adjacent to any holidays. Starting January 1, 2003 all meetings will be scheduled for the full calendar year.

Motion Made by:

Bob Hartung
Great Meadow

Motion Seconded by:

Randy McAdam
Franklin

Motion **Passed**/Defeated:

Unanimous

Date:

April 2, 2002

MOTION SHEET

The decision to retain attorney
representation be the sole responsibility of
the Executive Assembly.

Motion Made by: Chris Hansen

Motion Second by: Ken Keeler

Yes 228 NO 14 ABS 3

Motion Passed/Defeated: _____ Date: 10-3-02

MOTION SHEET

To establish a policy that the following support staff positions attend at minimum the first day of each Executive Assembly meeting:

Retirement / Disability Specialist

Health Benefits Specialist

Health and Safety Specialist

Motion Made by: Mike Carlson
Tim Osborn

Yes 63 NO 7 ABS 0

Motion Passed/Defeated: **Date:** 2/3/2003

MOTION SHEET

I move that if and when an Executive Assembly is to be adjourned due to a lack of a Quorum, a roll call will be conducted before adjournment and it's results will be conspicuously posted ASAP on NYSCOPBA's Home Page under the Heading of " Executive Assembly Roll Call / Non-Quorum Adjournments."

Motion Made by: Joe Scalise
Robert Centore

Unanimous Yes ___ NO ___ ABS___

Motion Passed/Defeated : Date: 2/4/2003

MOTION SHEET

I move that we vacate the past practice of waiting on action of committee reports until new business. We shall adopt the policy from Roberts Rules attached (see below).

Motion Made by: Frank McKinney
Paul Mikolajczyk

Motion **Passed**/Defeated: Unanimous

Date: 6/26/2003

...as quoted from Roberts Rules of Order, Newly Revised, 10th Edition, page 345..." A motion arising out of an officer's, a board's, or a committee's report is taken up immediately, since the object is to give priority to the classes of business in the order listed."

MOTION SHEET

Motion:

A Policy that all original video recordings of the Executive Assembly shall be provided to the Recording Secretary immediately upon the completion of same. They shall remain in the custody of the Recording Secretary. Copies to be provided upon request.

Motion Made by: Lyndon Johnson

Motion Seconded by: Pat Pratt

Motion Passed/Defeated: 1 opposed

Date: 12/16/04

Member who opposed

Robert Centore, Mohawk C.F.

MOTION SHEET

Motion:

To protect the integrity of these proceedings, the only recording devices allowed to record the Executive Assembly shall be provided by NYSCOPBA's Membership Services and those directed by the recording secretary. Should a member desire to record any or part of these proceedings they must present their request to the Executive Assembly prior to recording. Their request must be approved by the Executive Assembly.

Motion Made by: Lisa Andersen

Motion Seconded by: Pete Ronca

Motion **Passed**/Defeated: Unanimous

Date: 6/22/2005

MOTION SHEET

To have Membership Services video tape the Executive Assembly Meeting , as a means of reference.

The cost of equipment to accomplish this is \$2,726.94 – this is a one-time expenditure.

Copies of the video may be requested from Membership Services on an individual basis.

Motion Made by: Diane Davis

Motion Second by: Larry Flanagan

Yes _____ NO _____ ABS _____

Motion Passed/Defeated: unanimous Date: 11/14/02

MOTION SHEET

Minutes of the Executive Assembly meetings be made available in electronic format (compact disc), to any member in good standing, who requests a copy.
*Amended to ...any Chief Sector Steward in good standing who requests a copy.

Motion Made by: David Tessmer

Motion Second by: Ed Lattin

Yes ___ NO ___ ABS ___

Motion **Passed**/Defeated: **unanimous** Date: 11/14/02

MOTION SHEET

Motion:

That Knickerbocker and Bolton St. John's report in to us at the EA's to let us know what the progress is and what they are doing, or on the website.

Motion Made by: Mike Carlson

Seconded by: _____

Motion **Passed**/Defeated: unanimous

Date: April 18, 2012

MOTION SHEET

To direct those responsible for lobbying for NYSCOPBA to attend the monthly Executive Board meetings. If both individuals are not available at least one attends and this should be extended to all E.A.'s conducted in Albany.

Motion Made by: A. Mothershed

Second by: J. Harmon

Motion **Passed** unanimous

Date: March 13, 2012

MOTION SHEET

Motion:

To return the 2016 EA Locations to the prior
schedule of alternating Albany & Syracuse
Locations

Motion Made by: Mike Dildine

Motion Seconded by: John Harmon

Motion Passed/Defeated: Unanimous

Date: August 27, 2014

-----Unanimously approved by the Executive Board on 8/26/2014 -----

MOTION SHEET

Motion:

By order of the Executive Assembly all Executive Board meetings will have a representative of our duly hired law firm for all legal issues each and every Executive Board meeting. The lawyer shall be present throughout the duration of the entire meeting.

Motion Made by:

Kevin Walker
Downstate

Motion Seconded by:

Harry Brennan
Mt. McGregor

Motion **Passed**/Defeated:

Unanimously

Date:

November 19, 2001

* The above listed motion is verbatim from the maker.

MOTION SHEET

Motion:

I would like to make a motion to hold someone in the Albany union office responsible to report each month to the Executive Board on any change in the Department's policy, directives, rules, regulations etc. that effect the terms and conditions of any officers or sergeants job so that necessary steps may be taken by the Executive Board. This report shall be given and read into the record of every E-Board meeting, whether or not there are any changes! This will prevent any mishaps as was the case with Directive 4059, (emergency response).

Motion Made by: Wilson Chapman

Motion Seconded by: Don Rowe

Motion **Passed**/ Defeated: Unanimous

Yes_____No_____Abstain_____

Unanimous

Date: April 6, 2006

MOTION SHEET

To adopt a standing policy whereas whenever it becomes necessary to conduct a referendum vote of the membership in regard to tentative collective bargaining agreements or election of Executive Board members as stipulated in the Constitution and Bylaws — the Executive Assembly authorizes the Executive Board to conduct such referendum for those costs which are reasonable and customary.

Motion Made by: Diane Davis
Motion Seconded by: Chris Hickey

Motion **Passed**/Defeated: Unanimous

Date: February 14, 2008

**Wisdom: Recommendation of Constitution/Bylaws Committee to both the Executive Board and Executive Assembly.

MOTION SHEET

When NYSCOPBA receives an arbitration decision that is positive for NYSCOPBA that we create a standing policy that our law firm of record go to court (a judge) and get said decision confirmed.

Wisdom: DOCS as well all State agencies have attempted to and continue not to follow arbitration decisions that are not positive for them. This would allow NYSCOPBA to file contempt of court charges on the State agencies as well the individuals that are not following the decision.

Motion Made by: Tom Haas

Motion Seconded by: Brian Shanagher

Motion Passed/Defeated: Unanimous

Date: August 16, 2007

MOTION SHEET

Motion:

I would like to make a motion that B.A. and V.P. submit written itineraries to the Executive Vice President monthly so that there is accountability to the Membership!

Motion Made by: Robert Hartung
Great Meadow

Motion Seconded by: Randel Page
Riverview

Motion **Passed**/Defeated: 162 – 64

Date: April 1, 2002

MOTION SHEET

Motion:

It shall be policy of the NYSCOPBA Organization by order of the Executive Assembly:

All membership mailings to be generated by the Executive officers will not be mailed until thorough review of the Executive Board and approved by a quorum majority vote.

Motion Made by: Lyndon Johnson

Motion Seconded by: Frank Scarlotta

Motion Passed/Defeated: _____

Date: September 24, 2003

****Unanimous consent to refer to the Executive Board****

MOTION SHEET

Motion:

That NYSCOPBA proceed forward with a request for proposal in preparation for upcoming contract and arbitrations process. To seek out a seasoned and Independent Panel Member if we proceed with Arbitration. The Executive Board to spearhead this proposal process and bring to the EA for approval.

Motion Made by: Dave Luther, Sing Sing
Seconded by: Jim Frawley, Otisville

Motion Passed/Defeated: unanimous

Date: June 26, 2013

MOTION SHEET

To initiate an action if possible to protect our
members personal information released by
Paladium.net.

Motion made by: V. Blasio

Second by: M. Dildine

Motion **Passed** Unanimous

February 25, 2014

Motion Sheet

To propose a new policy for selecting Sergeant At Arms for statewide Executive Assembly Meeting. I propose that all 5 Regional Vice Presidents, along with Law Enforcement, are given the authority to select 2 stewards out of their represented regions for the Sergeant At Arms. The regions that would only receive one pick would rotate from region to region on a bi-monthly basis. The regions that have Valor Awards would forfeit there Sergeant At Arms for that Executive Assembly meeting.

Wisdom: to maximize the availability stewards in there respected regions would have to participate in the Executive Assembly process, in a fair and consistent manner.

Motion Made by: Chad Stickney
Motion Seconded by: Larry Cocozello

Motion **Passed**/Defeated: Unanimous

Date: June 30, 2011

MOTION SHEET

Motion:

I would like to adopt a policy to place a cap on mileage for Business Agents and VP's to \$ 1,000 a month. If you go over \$1,000 a month it is subject to approval of treasurer if mileage monies are denied they could appeal to Executive Board! The President is exempt from this policy.

Motion Made by: Robert Hartung

Motion Seconded by: Grant Marin

Motion Passed/Defeated: 73 Yes 7 No

Date: February 26, 2004

MOTION SHEET

No Vendor or employee of NYSCOPBA Employees Association will involve themselves, written or verbally, in any aspect of NYSCOPBA's internal political activity including and not limited to the hiring and firing of a Business agent.

Motion Made by: J. Telisky

Motion Seconded by: C. Hansen

Motion passed unanimous

Date: July 16, 2014

Motion

That after any serious attack from an inmate on a NYSCOPBA member that an advertising billboard goes up in the region or area near the work site that the attack took place. The billboard should mention less staff, and prison or work site violence or similar in nature. This includes the Law Enforcement members and covers any NYSCOPBA represented title.

Motion made by: V. Blasio

Second by: J. Gavin

Discussion on motion.

Motion **passed**: Unanimous

October 9, 2012

MOTION SHEET

Motion:

Elmira Sector Executive Assembly Motion Purpose of motion: The purpose of this motion is to facilitate the enactment of decisions made at sector meetings pursuant to Article XIII, Section B of the NYSCOPBA Constitution by authorizing Chief Sector Stewards with the ability to bind the union at the sector level, and to improve representation for our membership by enabling local representatives to officially participate in meaningful negotiations at the sector level.

This should have the effect of resolving sector issues in a prompt equitable manner.

Motion: This body, The New York State Correction Officer and Police Benevolent Association, does designate and authorize Chief Sector Stewards as Union agents who can bind the Union at sector level consistent with the statewide collective bargaining agreement.

This authorization to bind the Union shall include issues impacting the collective bargaining agreement (impact negotiations) and issues where the collective bargaining agreement authorizes local agreements and /or arrangements.

Motion Made by: Daniel Stuart
Elmira

Motion Seconded by: Thomas Mulhern
Cayuga

Motion **Passed**/Defeated: Unanimously

Date: April 1, 2002

MOTION SHEET

To adopt a policy whereas title specific members vote on their title specific Labor/Management agreements, at the sector level. The method of implementing this policy shall be determined by the sector stewards at each individual sector.

Motion Made by: Tom Mulhern
Sgt's. Committee

Yes ___ NO ___ ABS ___

Motion Passed/Defeated Unanimous Date: 12/3/2002

MOTION SHEET

I make a motion to leave the decision of the purchase of alcohol up to the perspective sectors.

Motion Made by:

Simun Matesic

Dave Tessmer

Motion Passed/Defeated: _____

Date: 10/23/2003

Revised: 10/4/02

REFERRED to Finance Committee

MOTION SHEET

That Chief Sector Stewards be permitted to hold a seat on more than one standing committees this would insure that those on committee have the experience and knowledge needed to serve the members properly.

Motion Made by: Tom Haas
Motion Second by: Ken Keeler

Yes ___ NO ___ ABS ___

Motion Passed/Defeated: unanimously Date: 10-3-02

MOTION SHEET

Motion:

Due to NYSCOPBA's Constitution being a legal and binding document, from this day forward it shall be the responsibility of the Constitution and Bylaws Chairperson to notify out retained law firm the date(s) the Constitution and Bylaws Committee will be meeting for an attorney to attend to provide legal advice.

Motion Made by: Simun Matesic

Motion Seconded by: Grant Marin

Motion **Passed**/Defeated: Unanimous

Date: April 22, 2004

MOTION SHEET

Motion:

I propose that the EA create or utilize a pre-existing committee to specifically keep watch for misappropriations, inappropriate denial of benefits, and wasteful spending by facility administrations, collect and verify information in regards to these actions and use these actions and use this information strategically in the media to inform the public.

Motion Made by:

Andy Lashua, Greene CF

Seconded by:

Chad Stickney, Ogdensburg CF

Motion **Passed**/Defeated: **unanimous**

Date:

February 16, 2012

MOTION SHEET

Motion:

That NYSCOPBA create a committee whose sole purpose is to monitor the activities of the Office of Inspector General DOCCS statewide and report to the Executive Board, Executive Assembly and the NYSCOPBA J&E Committee; instances of misconduct as they are discovered.

Motion Made by: Andrew Lashua

Motion Seconded by: Dan Mulligan

Motion **Passed**/Defeated: Unanimous

Date: June 25, 2014

MOTION SHEET

Motion:

To form a committee or assign an existing committee to research, prepare and pursue changing our correction officer and sergeant uniforms to a more professional law enforcement type uniform.

Motion Made by: Jim Frawley
Seconded by: Fran Kiernan

Motion **Passed**/Defeated: unanimous

Date: October 24, 2012

Motion to assign to the Health & Welfare Committee

Motion Made by: Jim Frawley
Seconded by: Mike Carlson

Passed w. one opposition (did not identify)

MOTION SHEET

Motion:

To immediately form a committee or assign an existing committee to research, prepare and pursue legislation to achieve a salary upgrade for all NYSCOPBA members. i.e., CO salary grade to fifteen, sergeant salary grade eighteen, etc.

The focus of the committee and the organization should be to achieve this upgrade as soon as possible. And if at all possible have this salary upgrade in place before March 30, 2014 when the next negotiated percent raise of two percent take effect.

Also, if this upgrade can not be achieved before then, the organization will continue to pursue this litigation until it is either passed or defeated by the state legislature or the governor.

**Unanimous consent given to assign to the Legislative / PAC Committee

Motion Made by: Jim Frawley

Seconded by: Dave Luther

Motion Passed/Defeated: unanimous - Yes -81; No - 0

Date: October 24, 2012

MOTION SHEET

Motion:

Recommendation from the Legislative/PAC Committee

Upon careful consideration of the attached motion, it is the recommendation of the Committee that NYSCOPBA pursue and reallocation through the Division of Classification and Compensation in accordance with Section 118 of the Civil Service Law to its' completion, prior to attempting to submit legislation to accomplish the same.

Motion Made by: Legislative/PAC Committee

Seconded by:

Motion Passed/Defeated: Passed w/ one objection*

* J. Frawley

Date:

December 12, 2012

MOTION SHEET

Motion:

The Election Committee recommends a special election for the ISOs, for multi work sites and one sector.

Motion Made by: Election Committee

Seconded by: _____

Motion Passed/Defeated: unanimous

Date: June 26, 2013

MOTION SHEET

Motion:

To accept the recommendation of the Election Committee for the Recall Panel elections to be aligned with the rest of the committees.

Motion Made by: Joe Bellinger

Motion Seconded by:

Motion Passed/Defeated: Unanimous consent

Date: September 18, 2013

MOTION SHEET

Motion:

To immediately call out the Collective Bargaining Committee to research and address the bargaining units deficiencies in the past contract and arbitration process. The C.B.C. should review all bargaining unit shortcomings and their wisdom & discuss the methodology and arguments used by the state and the union. By reviewing the minutes and the presentations of both sides the C.B.C. is then to return to the E.A. and make recommendations for neutralizing the states arguments – advancing the image and professionalism of our bargaining unit (i.e.: extended Academy, more strict physical fitness requirements and education requirements) Also the C.B.C. should look at the full list of public arbitrators, review their past awards and create a more informed list likely to be more favorable in our efforts.

Wisdom of the motion – The purpose of this motion is to position ourselves in advance and be on the offensive in the next round of negotiations. To fully understand the presented arguments of the state over the last few series of negotiations. It will give us an opportunity to neutralize the states presentation giving any potential arbitrator more incentive to vote on our behalf.

Motion Made by:

Willie Perez

Motion Seconded by:

Jamie Hathaway

Motion Passed/Defeated:

Unanimous consent

Date:

September 18, 2013



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 nyscopba@nyscopba.org



NYSCOPBA Collective Bargaining Committee

12/18/13

Meetings chaired by V. Blasio

In attendance were: Mulhern, Luther, Lashway, Carlson, Petrie, Dumas and guest WRVP M. Dildine, CRVP J. Gavin, Pres., D. Rowe, VP C. Hickey, and Treas. J. Telesky, Law Enforcement J. Harman. Also in attendance were Bill Sheehan and Keith Jacques (NYSCOPBA Attorneys)

Meeting held In Conference at NYSCOPBA HQ in Albany, NY

Meeting was called to order by V. Blasio.

A Round table discussion was held, by all in attendance, as to the recommendations made by the CBC at the December EA meeting. Upon completion of the discussion, the submitted recommendations were understood and a consensual agreement was heard.

- 1) The CBC is to be included in all aspects of any contract offers. This is to include contract negotiation and the Arbitration process. All discussion on Contracts and Arbitration will include updates to the CBC.
- 2) The CBC will be the entity to make all recommendation to the EA in dealing with the Contract and the Arbitration process. The Executive Board as a whole can be invited to participate and voice their opinions. But recommendations will come from the CBC.
- 3) The CBC will recommend to the EA that a new study be undertaken to address the Geographic pay for all affected areas, prior to the next contract negotiations. To address the inequality paid to other State agencies working in those regions and what is paid to our members.

It was agreed upon, by everyone in attendance, that the Geographic study would also include Shift differential/ inconvenience pay.

Also discussed was the hiring of an Economist to discuss the Cost of living increases.

The CBC spoke of a time line for conducting these studies and after discussion with Bill Sheehan it was determined best time would be around July 15, 2015. This way, when at the negation table, all information is up to date and pertinent.

New recommendations added for EA approval.

- 4) That an additional CBC committee member be added from Law Enforcement to participate in the negotiation process. (It was agreed that during the Law Enforcement negotiations that the CBC would be updated and advised thru out the entire process.)
- 5) That the CBC would conduct surveys by mail to all members but will also conduct Regional meetings to hear contract issues that members would like to have addressed. This process would start 6 months prior to negotiations.
- 6) The CBC recommends that NYSCOPBA insist that DOCCS be present during contract negotiations and agreements. CBC believes this will deter DOCCS stall tactics of accepting parts of agreement within the negotiation process. During the meeting the following issues were breeched and will be revisited. They were:

Increase of sick time accruals as recommended by the Legislative committee. (Sheehan to provide numbers to Blasio). Health care cost and contributions from members. Dental and eye care plans. Discussed past Arbitrations and the process we have followed.

Next Meeting set for February 18, 2014

Respectfully Submitted,
David Luther, CBC Member SSCF

Approved Unanimous - February 12, 2014 EA

MOTION SHEET

I move to create a policy that any and all proposed changes in the life and disability insurances be brought to the Health and Welfare Committee for their evaluation and then report to the E. A. for approval.

Motion Made by: Marcelino Perez

Motion Second by: Bob Hartung

Yes ___ NO ___ ABS ___

Motion **Passed**/Defeated: **unanimous** Date: 11/14/02

MOTION SHEET

Motion:

From this day forward this shall set the policy for mailing Constitutional Amendments to be ratified through a membership referendum vote.

Constitutional Amendments:

1. Shall include the “original language” of the Constitution Article or subsection thereof being amended;
2. New Language shall be in “**BOLD**”;
3. Old Language shall be “**strikethrough**”;
4. Shall contain the maker’s “Intent and/or justification”;
5. Shall contain the committee(s) “recommendation”;
6. Shall include a “Fiscal Note” from the Finance Committee. Should there be no financial impact it should so state; and
7. Shall include the “voting tally” of the Executive Assembly.

Motion Made by:

Simun Matesic

Motion Seconded by:

Bill Starr

Motion Passed/Defeated:

Unanimous

Date:

April 22, 2004

MOTION SHEET

Motion:

The Finance Committee will select two (2) trustees, other than the Association Treasurer, from the committee to oversee the year end audit.

This motion is a recommendation from the Finance Committee.

Motion Made by: John Telisky
Treasurer

Motion Seconded by: James Stevens
Coxsackie CF

Motion Passed/Defeated:

Date: September 28, 2005

The Finance Committee met on September 27 and 28, 2005. This motion is to be added to the Agenda for the December 7 and 8, 2005

Motion Passed Unanimously at December 7-8, 2005 Executive Assembly Meeting.

MOTION SHEET

In accordance with Article XI Section C Paragraph 2 which state in part “ each committee shall designate a chairperson and recording secretary from among the committee members ... therefore a copy of the report from each committee (except Judicial and Ethics) be included with the packets received at each E.A. The J & E Committee report are to be issued to the charging and the accused parties only upon their request and not to the General membership.

Motion Made by: Simun Matesic

Motion Second by: David Tessmer

Unanimous Yes ___ NO ___ ABS ___

Motion Passed/Defeated: _____ Date: 2/4/03

Motion Sheet

In accordance with the motion passed on 12/8/10 regarding the review of all contracts (requiring action by the Executive Board) no later than 120 days prior to expiration:

Motion: that all contracts requiring action be sent to the Finance Committee for a review of possible fiscal ramifications prior to being presented to the Executive Assembly for review of RFP.

Motion Made by: Dan Mulligan

Motion Seconded by: Chuck Weed

Motion **Passed**/Defeated: **Unanimously**

Date: February 10, 2011

Motion Sheet

To have all contracts requiring action by the Executive Board be reviewed no later than 120 days prior to their expirations, and presented to the Executive Assembly at that time for review and possible RFP's.

Motion Made by: Al Mothershed

Motion Seconded by: Tom Mulhern

Motion Passed/Defeated: unanimously

Date: December 8, 2010

Motion Sheet

To accept the proposal for Business Travel Accident Insurance.
This insurance will cover Union Officials in the amount of
\$500k and Sector Stewards will be covered in the amount of
\$250k.

Motion was passed unanimously

Date: February 11, 2009

Date: February 11, 2009

MOTION SHEET

Motion:

“A motion to obtain/provide hostage insurance for members of NYSCOPBA.”

Motion Made by:

Joseph Strong
Livingston

Motion Seconded by:

John O’Donnell
Gowanda

Motion *Passed*/ Defeated:

Unanimous

Date:

September 15, 1999

MOTION SHEET

Motion:

Expend Fiscal Year 13-14 and Fiscal year 14-15 funds for 25.6 - QWL Funding for the 3 current building projects.

Motion Made by: Chris Hickey

Motion Seconded by: John Telisky

Motion Passed/Defeated: Passed

1 NO - J. Harmon, LEVP

Date: April 23, 2014

MOTION SHEET

Motion:

To create a Key Master Account for all sector checking accounts.

Motion Made by: John Telisky

Treasurer

Motion Seconded by: James Stevens

Coxsackie

Motion Passed/Defeated:

Date: October 14, 2005

The Finance Committee met on October 14, 2005. This motion is unanimously approved by the Finance Committee. No cost would be incurred by NYSCOPBA.

Motion Passed Unanimously at the December 7-8, 2005 Executive Assembly Meeting.

MOTION SHEET

Motion:

This body adopt a policy to have the financial report mailed out with the meeting minutes prior to each Executive Assembly starting with the next 2005 Assembly.

Motion Made by: Art Jolley
Motion Seconded by: Randy McAdam

Motion **Passed**/Defeated: Unanimous

Yes ___ No ___ Abstain ___
Unanimous

Date: 4/20/2005

MOTION SHEET

Motion:

That the NYSCOPBA Executive Board set up a Statewide Labor Management Meeting approximately every 6 months to address the needs of our members.

Motion Made by:

Robert Hartung
Great Meadow

Motion Seconded by:

Frank McKinney
Lyon Mt.

Motion **Passed**/Defeated:

Unanimously

Date:

August 29, 2002

MOTION SHEET

Motion:

Recommendation from the Health & Welfare Committee regarding a dental insurance programs for NYSCOPBA Retiree Chapter Members (see attached minutes).

Motion Made by: Health & Welfare Committee

Seconded by:

Motion Passed/Defeated: unanimous

Date: December 12, 2012

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1 this language?
 2 MR. PORCARO: You would
 3 have to get a copy of the law.
 4 You would have to look at the
 5 law the way it is written. You
 6 would have to suggest changes
 7 to it and write to your
 8 congressman and say we feel we
 9 are being unfairly treated and
 10 these are the changes that
 11 should be made in the law.
 12 UNIDENTIFIED SPEAKER:
 13 Thank you.
 14 MR. PORCARO: Any other
 15 questions?
 16 (No Response.)
 17 MR. PORCARO: Everyone have
 18 a merry Christmas and a happy
 19 New Year and we will see you in
 20 a couple months.
 21 PRESIDENT ROWE: Health and
 22 Welfare Committee.
 23 MR. LASHUA: Lashua,
 24 Greene.

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1 Two points of discussion;
 2 the main points at our last
 3 committee meeting held on
 4 November 20th; the first was
 5 new uniforms. Vendors are
 6 still being sought out and
 7 interviewed at this time and
 8 more research is required
 9 before we present anything to
 10 the members or to DOCCS.
 11 Next up was discussion on
 12 the new retiree dental plan,
 13 which leads to the following:
 14 → The Health and Welfare ←
 15 Committee requests our
 16 insurance broker to prepare and
 17 distribute a request for
 18 proposal for a dental insurance
 19 program for NYSCOPBA retiree
 20 chapter members. This would be
 21 a voluntary program offered to
 22 all retiree chapter members and
 23 their dependents. The cost of
 24 this program would be deducted

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1 from the retirees monthly
 2 pension check.
 3 During employment our
 4 members receive dental
 5 insurance from the New York
 6 State Health Insurance Program
 7 through GHI. Upon retirement,
 8 members may continue their
 9 dental benefits under the COBRA
 10 rules for 36 months. When
 11 COBRA coverage ends, GHI again
 12 offers the opportunity for
 13 retired members to purchase the
 14 GHI conversion plan. Premiums
 15 paid for COBRA coverage and the
 16 GHI conversion plan are paid by
 17 retirees through direct
 18 billing.
 19 Because of the cost, many
 20 retirees elected not to
 21 continue their dental coverage.
 22 Once a retiree declines to
 23 continue coverage, they lose
 24 coverage forever and can not

(Executive Assembly 12/12/2012) Page 112

1 purchase GHI coverage at a
 2 later date.
 3 Also, many retiree chapter
 4 members have expressed their
 5 dissatisfaction with GHI
 6 because there are not enough
 7 choices for GHI dentists in
 8 their area.
 9 As an alternative, NYSCOPBA
 10 will offer a low cost,
 11 voluntary group dental plan
 12 that covers preventive services
 13 only. This type of dental
 14 program is an affordable option
 15 that will allow retirees who do
 16 not have dental insurance an
 17 opportunity to obtain it.
 18 It is important to
 19 understand that the recommended
 20 dental program is not meant to
 21 replace the dental insurance
 22 coverage offered by NYSCOPBA to
 23 NYSCOPBA retirees through GHI
 24 and New York State. It is

(Executive Assembly 12/12/2012) Page 113

1 offered as a less expensive
 2 alternative.
 3 In addition to providing
 4 basic dental services, the
 5 recommended dental program has
 6 a large enough network to
 7 provide sufficient coverage
 8 across the United States, and
 9 if necessary it would provide
 10 retirees a higher reimbursement
 11 when utilizing a dentist not in
 12 the network.
 13 The plan would cover
 14 preventive services such as
 15 emergency treatment, oral
 16 examinations, x-rays, teeth
 17 cleaning and additional
 18 children's services. Retirees
 19 will have the freedom to use
 20 any dentist they choose and
 21 eliminate claim forms when a
 22 network dentist is chosen.
 23 Also if services are
 24 required outside the scope of

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1 coverage, versus the GHI
 2 conversion cost of \$35.29 for
 3 an individual, \$66.43 for
 4 individual and spouse and
 5 \$98.50 for family coverage.
 6 As an additional benefit,
 7 participants in the retiree
 8 chapter program dental program
 9 will also have access to
 10 discounted vision care if Davis
 11 Vision Providers are used.
 12 All current retiree chapter
 13 members will be guaranteed an
 14 opportunity to enroll in the
 15 plan during a specific open
 16 enrollment each year. New
 17 retiree chapter members who
 18 first join the retiree chapter
 19 will also be given an
 20 opportunity to enroll at that
 21 time.
 22 Guardian Life Insurance
 23 Company of America is rated A
 24 plus plus superior by A Invest

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1 the preventive plan, members
 2 will receive a discount for the
 3 services if they are performed
 4 by a Guardian participating
 5 dentist.
 6 The plan the Health and
 7 Welfare Committee recommends
 8 for retiree chapter members
 9 will be provided by the
 10 Guardian Life Insurance Company
 11 of American.
 12 Guardian Life is one of the
 13 largest national dental
 14 networks with 138,000 locations
 15 and the average distance to a
 16 choice of two member providers
 17 is 6.2 miles.
 18 The monthly cost for the
 19 proposed Guardian Life program
 20 is approximately one half of
 21 the GHI conversion cost; \$17.38
 22 for the retiree chapter member
 23 and \$31.12 for a member and
 24 spouse and \$50,35 for family

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1 and has a financial size
 2 category of XB, which is two
 3 billion dollars or greater.
 4 And a stable outlook.
 5 So based on a review of the
 6 products available in the
 7 market place, the Health and
 8 Welfare Committee recommends
 9 that NYSCOPBA Execute an
 10 agreement with the Guardian
 11 Life Insurance Company of
 12 America that provides a dental
 13 program for retiree chapter
 14 members in accordance with the
 15 terms and conditions proposed.
 16 With that being said, is
 17 there anyone that has a problem
 18 or issue with moving forward on
 19 the committee's recommendation?
 20 PRESIDENT ROWE: Any
 21 discussion on the
 22 recommendation?
 23 (No Response.)
 24 PRESIDENT ROWE: Hearing

<p>(Executive Assembly 12/12/2012) Page 117</p> <p>1 none, all those in favor of 2 accepting the recommendation 3 signify by saying aye. 4 (Response of "Aye".) 5 PRESIDENT ROWE: Anyone 6 opposed? 7 (No Response.) 8 PRESIDENT ROWE: Carried.</p> <hr/> <p>9 MR. PORCARO: Andy, can we 10 get a copy of that to present 11 to our members? Because what 12 we have in your notes in here 13 does not have that whole packet 14 in it there. 15 MR. LASHUA: Yes. 16 VICE PRESIDENT PAGE: Randy 17 Page, Northern Region Vice 18 President. 19 Just if anybody is 20 interested, from eleven to one 21 there will be a representative 22 out here from the Guardian that 23 will have a lot of information 24 here as well.</p>	<p>(Executive Assembly 12/12/2012) Page 119</p> <p>1 PRESIDENT ROWE: Let's get 2 through the committee reports. 3 It needs some discussion 4 and we have discussed this at 5 the Board. Obviously nobody is 6 going to put it aside. We will 7 discuss it. 8 But there are various 9 things, whether it is 10 documentation or how we proceed 11 or how many are heard at triage 12 or how many arbitration dates 13 are available to us. 14 And as you said, it has 15 been like that for 30 years. 16 And we have been looking to 17 improve it. 18 Legislative PAC. 19 MR. DELMONTE: Lou 20 Delmonte, Lakeview. 21 Good morning. 22 I'll start off just going 23 over the sheet I think 24 everybody has in their packet.</p>
<p>(Executive Assembly 12/12/2012) Page 118</p> <p>1 So you might want to get 2 what you can from him and bring 3 it back to your members as 4 well. 5 PRESIDENT ROWE: John. 6 TREASURER TELISKY: 7 Telisky, Treasurer. 8 Can we have Bill step to 9 the mike and talk about the 10 grievance process so everybody 11 has a full interpretation of 12 what's going on with the 13 arbitrations? 14 That grievance was filed on 15 11/7/2006. And it was ready 16 for full arbitration on 17 4/2/2007. So it has been in 18 the pipe line. 19 I know you can only do 20 about 25, and I don't want to 21 speak for you, but I know the 22 system only allows you to do 23 approximately 25 full 24 arbitrations a year.</p>	<p>(Executive Assembly 12/12/2012) Page 120</p> <p>1 If you don't, the starting 2 balance \$306,501.59. 3 There was deposited 4 \$25,000. Transfer out was 5 \$50,000 with an end balance of 6 \$281,501.59. 7 Deposits in November, there 8 were two deposits of \$25,000. 9 And the year to date 10 expenditure is \$366,450. 11 A couple things here that 12 we will go over real quick. 13 There was a motion put out 14 in the last EA in regard to the 15 committee taking on the 16 upgrade. We met and we 17 discussed in length and had 18 some legal advice on this in 19 regard to how it should be 20 approached and the best way to 21 approach it and the effective 22 way. And there was a 23 recommendation put out. Again, 24 that should be in the packet.</p>

Motion Sheet

To raise the Retiree's benefit for eyeglass reimbursement from \$50.00 to \$100.00 effective 3/1/09.

Motion Made by: John Ireland
Motion Seconded by: Brent Dumas

Secondary motion to send to the Health & Welfare Committee

Motion Made by: John Telisky
Seconded by: Al Mothershed

Motion Passed to send to Health & Welfare Committee

Date: February 11, 2009

Voted on April 15, 2009 at Executive Assembly meeting.

Passed Unanimously

MOTION SHEET

Motion:

Asked for unanimous consent to accept an increase in Union provided life insurance benefit for the active and retired members as follows:

Active Members life insurance increase from \$15,000 to \$30,000

Active Members AD&D insurance increase from \$26,000 to \$30,000

Retiree Chapter Members life insurance increase from \$15,000 to \$20,000

Motion Made by: John Telisky, Treasurers Report

Seconded by:

Motion **Passed**/Defeated: **unanimously**

Date: April 10, 2013

SECURITY SERVICES UNIT

2009-2016

**AGREEMENT
BETWEEN
THE STATE OF NEW YORK
AND
NEW YORK STATE CORRECTIONAL OFFICERS AND
POLICE BENEVOLENT ASSOCIATION, INC.**

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PREAMBLE

This Agreement entered into by the Executive Branch of the State of New York hereinafter referred to as the "Employer" and New York State Correctional Officers and Police Benevolent Association, Inc. (NYSCOPBA), hereinafter referred to as the "Union", on behalf of all employees in the bargaining unit in every agency where they may be employed, has as its purpose the promotion of harmonious employee relations between the Employer and the Union, the establishment of an equitable and peaceful procedure for the resolution of differences and the establishment of salaries, wages, hours of work and other terms and conditions of employment.

BILL OF RIGHTS

To insure that individual rights of employees in the Security Services Unit are not violated, the following shall represent the Employees' Bill of Rights:

- (A) An employee shall be entitled to Union representation at each and every step of the grievance procedure set forth in this Agreement.
- (B) An employee shall be entitled to Union representation at each stage of a disciplinary proceeding instituted pursuant to Article 8 of this Agreement.
- (C) No employee shall be requested to sign a statement of an admission of guilt to be used in a disciplinary proceeding under Article 8 without having Union representation.
- (D) No recording devices of any kind shall be used during any disciplinary proceedings except as provided for in Article 8, unless agreed to by all parties and each party receives a copy of the tape.
- (E) In all disciplinary hearing proceedings under Article 8, the burden of proof shall rest with the Employer.
- (F) An employee shall not be coerced or intimidated or suffer any reprisal either directly or indirectly that may adversely affect his hours, wages or working conditions as the result of the exercise of his rights under this Agreement.
- (G) An employee shall be entitled to Union representation at an interrogation if it is contemplated that such employee will be served a notice of discipline pursuant to Article 8 of this Agreement. Such employee shall not be required to sign any statement arising out of such interrogation.
- (H) Except as provided below, any statements or admissions made by an employee during such an interrogation without the opportunity to have

Union representation may not be subsequently used in a disciplinary proceeding against that employee.

- (I) If representation is requested by the employee and if such representation is not provided by the Union within a reasonable period of time, the Employer may proceed with the interrogation.
- (J) The Employer shall not infringe upon the right of an employee to be accompanied by counsel as provided by Section 73 of the Civil Rights Law, when said employee is summoned to appear before any "hearing" or before any "agency", as such terms are defined in Section 73 of the Civil Rights Law.
- (K) Any employee who is subject to questioning by his/her Department's Inspector General's Office shall, whenever the nature of the investigation permits, be notified at least 24 hours prior to the interview. Such notification shall include facts sufficient to reasonably inform the employee of the particular nature of the investigation.
- (L) Any employee who was notified that there was an investigation pending against him or her by their Department's Inspector General's Office shall be notified by the Employer of the closure of the investigation within two weeks of the closure of such investigation related to such employee.
- (M) The Employer shall keep confidential all employee medical records.

ARTICLE 1

Term of Agreement

This Agreement shall be effective as of April 1, 2009, except as otherwise specified, and shall continue in full force and effect to and including March 31, 2016.

ARTICLE 2
Recognition

The Employer, pursuant to the certification of the Public Employment Relations Board, recognizes the Union as the sole and exclusive representative of those employees in the Security Services Unit for the purpose of collective negotiations concerning salaries, wages, hours of work and other terms and conditions of employment of employees serving in positions in the Security Services Unit. The term employee or employees shall include seasonal employees as contained in Appendix D of this Agreement.

ARTICLE 3

Nondiscrimination

3.1 The Employer and the Union agree that the provisions of this Agreement shall be applied equally to all employees in compliance with applicable law against discrimination as to age, race, creed, color, national origin, sex, disability, marital status and political affiliation. The parties further agree that the provisions of this Agreement shall be applied equally to all employees in compliance with Executive Order 33¹ as to sexual orientation. The parties reaffirm their commitment to all applicable military laws and the rights of former and present members of the Armed Forces of the United States.

3.2 All references in this Agreement to employees of the male gender are used for convenience only and shall be construed to include both male and female employees.

3.3 The Employer agrees not to interfere with the rights of employees to become members of the Union. There shall be no discrimination, interference, restraint or coercion by the Employer or any Employer representative against any employee because of Union membership or because of any employee activity permissible under the Taylor Law and this Agreement in an official capacity on behalf of the Union, or for any other cause.

3.4 The Union recognizes its responsibility as bargaining agent and agrees to represent all employees in the bargaining unit without discrimination, interference, restraint or coercion.

¹ The relevant provision of Executive Order 33 states "...[I]t has been, and it remains, the policy of this State not to discriminate on the basis of sexual orientation in the provision of benefits or services and in the State's capacity as an employer..."

ARTICLE 4

Check-Off

4.1 The Employer agrees to grant exclusive rights of dues deduction to the Union and will deduct Union membership dues from the pay of those employees who individually request in writing that such deductions be made. The amount to be deducted shall be certified to the Employer by the Union and the aggregate deductions together with a list of employees for whom deductions were made shall be remitted forthwith to the Union.

4.2 The Employer further agrees to grant to the Union exclusive payroll deduction of payments for employee benefit programs sponsored by the Union.

4.3 Employees may, at their individual option, participate by voluntary payroll deductions in the Individual Retirement Account (IRA) plan, provided through the Union, by a "financial organization" (as defined in State Finance Law §201.6) pursuant to the Economic Recovery Tax Act of 1981 (P.L. 97-34).

4.4 Employees may, at their individual option, participate in the New York State Deferred Compensation Plan subject to the law and rules governing the Plan.

ARTICLE 5
Union Rights

5.1 Bulletin Boards

(a) The Employer agrees to furnish and maintain suitable locking glass enclosed bulletin boards in convenient places in each working area to be used exclusively by the Union.

(b) The Union agrees to limit its postings of notices and bulletins to such bulletin boards.

(c) The Union agrees that it will not post material which may be profane, derogatory to any individual, or constitute election campaign material for or against any person, organization or faction thereof except that election material relating to internal Union elections may be posted on such bulletin boards. During the period in which the Union has the exclusive right to bulletin boards, no other employee organization, or affiliate thereof, except employee organizations which have been certified or recognized as the representative for collective negotiations of other State employees employed at such locations shall have the right to post material on State bulletin boards or distribute literature at work locations of Security Services Unit employees. All bulletins or notices shall be signed by the NYSCOPBA President, Chief Sector Steward or their designee.

(d) Any material which the Employer alleges to be in violation of this Agreement shall be promptly removed by the Union. The matter will then immediately be referred to Step 3 of the grievance procedure for resolution.

(e) In institutions or facilities which have repeated violations, the Director of the Governor's Office of Employee Relations may require advance approval of all future material which is to be posted.

5.2 Access to Employees and Meeting Space

(a) Department or agency heads may reach understandings with the Union for reasonable and appropriate arrangements whereby the Union may advise employees of the availability of the Union representatives for consultations during non-working hours concerning Union membership, services and programs.

(b) The Union representatives shall, on an exclusive basis for employees covered by this Agreement, have access to employees during working hours to explain the Union membership, services and programs under mutually developed arrangements with department heads wherein such access shall not interfere with work duties or work performance. Such consultations shall be no more than 15 minutes per employee per month, not to exceed an average of fifteen percent per month of the employees in the agency or institution.

(c) The departments or agencies shall provide meeting space to the Union upon written notice from the chief sector steward in buildings owned or leased by the State.

Meeting space shall be provided under the following circumstances:

- (1) suitable space is not reasonably available elsewhere in the area;
- (2) the Union agrees to reimburse the Employer for any additional expenses incurred by the Employer including furnishing janitorial services, and any other expense which would not have been incurred had the space not been available;

(3) a request for the use of such space is made in advance pursuant to the rules of the department or agency concerned;

(4) the purpose of the meeting is made known to and is approved by the Employer.

5.3 Employee Organization Leave

(a) The Union shall be provided collectively with a total of not more than 712 days of non-cumulative employee organization leave during each year of this Agreement to attend meetings for internal administrative functions and policy committees.

(b) The allocation of employee organization leave provided in paragraph 5.3(a) to individual employees shall be the sole prerogative of the Union and shall be allocated in units of not less than one day per instance per employee. Request for use of this leave shall solely be made by NYSCOPBA. As used in this Article, the phrase "one day" shall be defined as "one duty tour."

(c) There will be no change in the present method of approving applications for attendance at meetings of the Executive Assembly.

(d) Under special circumstances and upon advance request, additional employee organization leave for additional meetings may be granted by the Director of the Governor's Office of Employee Relations.

(e) For the purpose of entering into collective negotiations for a successor agreement to this Agreement, the Employer agrees to grant employee organization leave to a reasonable number of employees for the Union Negotiating Committee with the understanding that there shall be no more than one Union committee member from

any one facility or region eligible to receive such leave for this purpose, except that this restriction shall not apply to Chairs of Standing Committees. The Union shall provide the State with a list of names and work locations of all such committee members prior to the commencement of any such negotiations.

(f) Employee organization leave shall be release time without charge to leave credits accrued by individual employees. Such release time shall be granted subject to the provision that the resulting absence from work will not interfere with the proper conduct of governmental functions. Employee organization leave provided pursuant to paragraph 5.3(a) of this Article is not required to be granted unless the Union provides the Director of the Governor's Office of Employee Relations or his designee with 14 days advance notice of the purpose and date for which such leave is requested and the names and work stations of the employees for whom such leave is requested.

(g) The Director of the Governor's Office of Employee Relations or his designee shall send the Union a statement at the end of each quarter showing the total employee organization leave used to date in each Agreement year pursuant to paragraph 5.3(a) above. This statement shall be presumed correct unless the Union within 30 days of receipt of the statement advises the Director of the Governor's Office of Employee Relations or his designee of any claimed errors.

(h) Employee organization leave provided pursuant to this Article shall be in addition to that provided elsewhere in this Agreement for Union representation in processing of grievances and labor/management meetings.

(i) The Union shall supply (and keep current) to the Director of the Governor's Office of Employee Relations 30 days after the execution of this Agreement and

quarterly thereafter a list of Union officers, executive board members, grievance representatives, members of policy committees and other employees eligible for leave under this Agreement together with the official work stations, departments and agencies of such employees. All such leave shall be used only for appropriate purposes, consistent with past practice, and only as specifically requested by the Union and granted by the State.

(j) Travel time as used in this Article shall mean actual and necessary travel time not to exceed eight (8) hours each way.

5.4 Unchallenged Representation

The Employer and the Union agree pursuant to Section 208 of the Civil Service Law that the Union shall have unchallenged representation status for the maximum period permitted by law on the date of execution of this Agreement.

5.5 Agency Shop

Mandatory agency shop fee deductions shall be continued for the period required by law.

5.6 Membership Packets

The Employer agrees to provide each new employee in the Security Services Unit with a membership packet furnished by the Union within one workweek following his first day of work and to the extent possible on the first day of work. The materials which may be included in such packet shall be subject to the restrictions set forth in paragraphs 5.1(c) and 5.1(d) of this Article.

5.7 Union Leave

A permanent employee or employees nominated by the Union may be granted by the Employer a leave or leaves of absence with full salary from their regular position for the purpose of serving with the employee organization subject to the conditions of this paragraph. Each such leave, its term and renewal, shall be subject to the discretionary approval of the Director of the Governor's Office of Employee Relations. The Union shall periodically, as specified by the Director of the Governor's Office of Employee Relations, reimburse the State for the salary, wages and any other payments paid to each employee by the Employer during such leave of absence together with the cost of fringe benefits at the percentage of salary, wages as determined by the Comptroller. The Union shall purchase an insurance policy in the form and amount satisfactory to the Director of the Governor's Office of Employee Relations to protect the State in the event the State is held liable for any damages or suffers any loss by reason of any act or omission by such employee during the period of such leave of absence with full salary.

5.8 Exclusivity

The Employer will not meet or confer with any other employee organization or affiliate thereof with reference to terms and conditions of employment of employees. If such organizations request meetings, they will be advised by the Employer to transmit their requests concerning terms and conditions of employment to the Union and arrangements will be made by the Union to fulfill its obligation as a collective negotiating agent to represent these employees and groups of employees.

ARTICLE 6

Management Rights

Except as expressly limited by other provisions of this Agreement, all of the authority, rights and responsibilities possessed by the Employer are retained by it.

ARTICLE 7

Grievance and Arbitration

7.1 Definitions

For the purposes of this Agreement, all disputes shall be subject to the grievance procedure as outlined below:

(a) A dispute concerning the application and/or interpretation of this Agreement is subject to all steps of the grievance procedure including arbitration, except those provisions which are specifically excluded.

(b) Any other dispute or grievance concerning a term or condition of employment which may arise between the parties or which may arise out of an action within the scope of authority of a department or agency head and which is not covered by this Agreement shall be processed up to and including the conference phase of the Alternate Dispute Resolution Process, and not beyond, except those issues for which there is a review procedure established by law or by or pursuant to rules or regulations filed with the Secretary of State.

(c) A claim of improper or unjust discipline against an employee shall be processed in accordance with Article 8 of this Agreement.

7.2 Procedure

The purpose of this Article is to provide a prompt, equitable, peaceful and efficient procedure to review and resolve grievances, and to further the purpose of this Agreement to promote harmonious employee relations. Both the Employer and the Union recognize the importance of, among other aspects of the procedure, the timely issuance of decisions to filed grievances and the responsible use of this procedure. Upon failure of the Employer to provide a decision within the time limits provided in this Article, the Union may appeal to the next step of the grievance procedure. The

grievance will not revert back to the previous step where it was originally untimely unless mutually agreed to by both parties.

Prior to initiating a formal written grievance pursuant to this Article, the employee or the Union is encouraged to resolve disputes subject to this Article informally by reviewing them with the appropriate immediate supervisor, local administration or agency or department.

(a) Grievances

Step 1. The employee and/or the Union shall present the grievance in writing to the facility head, institution head, divisional head or regional head within 20 days of the act or omission giving rise to the grievance or within 20 days of the date on which the employee first knew of such act or omission. The facility head, institution head, divisional head or regional head, shall each designate a regular representative, who shall meet with the Union and the grievant during the employee's regular work shift within ten days of receipt of the grievance and shall render a decision in writing within ten days from the day of such meeting.

Step 2. In the event that the grievance has not been satisfactorily resolved at Step 1, an appeal may be taken by the Union in writing to the department or agency head, as appropriate, within 15 days from receipt of the Step 1 decision. The written appeal shall contain a description of the relevant facts from which the grievance derives and specific references to all sections of the Agreement, if any, which the Union claims have been violated. In cases in which both parties agree that a meeting is necessary, the department or agency head, or designee, shall meet with the Union to review the grievance within ten days from receipt of the Step 2 written appeal and shall render a written decision which shall include a brief statement of the relevant facts on which the decision is based to the Union within ten days from the day of the Step 2 meeting. Upon receipt by the Employer of notice that no meeting will be held, a written decision will be issued within ten days of receipt of said notice. Communications concerning

appeals and decisions at this Step shall be made by personal service or by registered or certified mail.

Step 3. In the event that the grievance has not been satisfactorily resolved at Step 2, an appeal to the Director of the Governor's Office of Employee Relations may be taken by the Union in writing within 60 days from the day on which the Union received the Step 2 decision. Such appeal shall contain a copy of the Step 2 decision. All communications concerning appeals and decisions at this Step shall be made by personal service, registered or certified mail.

Every other week (on a designated day), representatives from the Union and the Governor's Office of Employee Relations will meet and review all grievances that have been appealed to the Step 3 level during the previous two week period. If warranted, an agency representative may be in attendance at these meetings. At these meetings, the grievance will be read, reviewed and tactically distributed for processing in one of the following ways:

1. Expedited Decision. For grievances with respect to which either side believes that the decision is going to be traditional, and involves issues which cannot be resolved by the grievance process, the Governor's Office of Employee Relations shall provide, within ten days, a written Step 3 response in the form of a brief answer.

2. On-site Review. If both representatives believe that a Step 3 hearing review is necessary, the parties will agree to schedule such a review on the next trip to the work location in question. Trips to regions or work locations will be scheduled in advance on a "circuit" basis to ensure that each work location can be visited at least once every four months, if necessary.

3. Safety Issues. Issues which are, in fact, safety and health concerns (not to include staffing issues) may be referred to an Agency Level Statewide Safety and Health Committee. A safety specialist from the employing agency and the Union can review the issues and determine if there may be methodologies available for resolution

of the issues. Resolutions will be reduced to writing. In the event the issues cannot be resolved, either party may refer them to the conference phase of the Alternate Dispute Resolution Process where applicable.

4. Hold Status. The grievance may be put on hold for two weeks so that either or both sides can gather more information or make local contacts. Those grievances placed in hold status will become the first to be discussed at the next meeting between representatives from the Union and the Governor's Office of Employee Relations.

Automatic Progression. If the Employer fails to meet with the Union on a timely basis or render a timely decision, the Union may treat the grievances as having been denied at the level at which the delay occurred and may then appeal the grievance to the next level.

(b) Alternate Dispute Resolution Process (ADR)

(1) In the event that the grievance has not been resolved satisfactorily at Step 3, a demand for arbitration may be brought only by the Union, through the President or his designee within 15 days from the day the Union receives the Step 3 decision by mailing or personally serving the demand to the Director of the Governor's Office of Employee Relations and simultaneously filing the demand with the master arbitrator. The demand will identify the Article(s) and subsections sought to be arbitrated, the names of the department or agency, and employee(s) involved, copies of the original grievance, appeals documents and the written decisions rendered at the lower steps.

(2) Resolution conferences and arbitrations under the ADR process shall be held before the master arbitrator appointed by agreement of the parties. The parties may review the appointment at any time, by mutual agreement.

(3) Resolution Conference

Within 30 days after the demand for arbitration, the parties shall meet with the master arbitrator who shall attempt to have the parties reach a settlement and narrow the issue(s) for hearing, including stipulating to facts, relevant documents and exhibits. The grievant may be permitted to participate in the conference by telephone.

(4) Expedited Arbitration

After the resolution conference, either party may require a hearing before the master arbitrator on an expedited basis. Grievance hearings shall, absent extraordinary circumstances, be limited to one day.¹ Both parties should be prepared to fully present their positions and any testimony on the day of the hearing. No briefs shall be submitted by either party.

(5) The parties agree to meet for a total of four days per month at a mutually agreed upon site in Albany to conduct the resolution conferences and/or expedited arbitrations.

(6) Where no hearing is held and the case is submitted on papers the parties may submit their positions in writing to the arbitrator on a mutually agreed upon date no later than thirty (30) days after the mailing of the papers to the arbitrator. Such written position papers may not exceed five double-spaced pages.

(7) The master arbitrator's decision and award is to be rendered within seven (7) days of the completion of the hearing and shall include only a finding or findings and remedy, as appropriate, on a form provided by the parties. The master arbitrator shall have the authority to issue bench decisions when appropriate.

(8) The decision or award of the master arbitrator shall be consistent with applicable law and the Agreement and final and binding upon the parties (NYSCOPBA and the State) with respect to the determination of the grievant's claims. Such decisions

¹ The parties shall prepare a recommended schedule for the conduct of a one-day hearing to be presented to the master arbitrator. Such schedule is to serve merely as a guide to assist in insuring that cases are ordinarily presented and concluded in one day.

are non-precedential and shall not be submitted in any other case unless the parties mutually agree otherwise.

(9) The parties may meet periodically to insure that in practice the ADR process is in keeping with their intent and to take what steps are necessary to conform such practice with their intent.

(c) Full Arbitration

(1) After the resolution conference, if the Employer and the Union mutually determine that an individual grievance warrants a decision that will be precedential for future matters, the parties may refer the matter to traditional arbitration. If the parties cannot agree as to whether the matter should be referred to full arbitration, the master arbitrator shall have the authority to make such determination as to whether full arbitration is warranted.

(2) The parties shall mutually select an arbitrator. If the parties are unable to agree, the matter will be referred to the Public Employment Relations Board for selection.

The arbitrator shall hold a hearing at a time and place convenient to the parties within 20 days of the acceptance to act as arbitrator. The arbitrator shall issue a written decision within 30 days after completion of the hearing. The arbitrator shall be bound by the rules of the American Arbitration Association which are applicable to labor relations arbitrations which are in effect at the time of arbitration. In the event a disagreement exists regarding arbitrability of an issue, the arbitrator shall make a preliminary determination whether the issue is arbitrable under the express terms of this Agreement. Once a determination is made that such a dispute is arbitrable, the arbitrator shall then proceed to determine the merits of the dispute.

(3) Miscellaneous Provisions

Neither the master arbitrator nor arbitrator shall have any power to add to, subtract from, or modify the provisions of this Agreement in arriving at a decision of the

issue presented and shall confine the decision solely to the application and interpretation of the Agreement.

All fees and expenses of the arbitration shall be divided equally between the parties except that each party shall bear the cost of preparing and presenting its own case. Cost for the cancellation of a hearing date shall be borne by the party seeking cancellation.

7.3 Representation

(a) The Employer shall recognize the following grievance representatives at each step of the grievance procedure and shall release such representatives from normal duties to process grievances and conduct necessary relevant investigations providing that such absence from work will not interfere with proper conduct of governmental functions: steward and chief sector steward.

On the Union's prior written request at least 48 hours in advance, the Employer will make every effort to reschedule shift assignments so that meetings fall during working hours of Union representatives.

The Union shall furnish the Employer with a list of all employee representatives, Union Vice Presidents and Union staff authorized to represent the Union in the grievance process pursuant to this Article 60 days from the date of execution of the Agreement.

(b) Statewide elected union officers and Union staff may be present at each step of the grievance procedure.

7.4 General Provisions

(a) As used in this Article, all references to days shall mean calendar days. All of the time limits contained in this Article may be extended by mutual agreement of the parties and shall be confirmed in writing.

(b) Grievances resolved at Step 1 shall not constitute a precedent for any other facility, institution, division, or region, or at Step 2 for any other agency unless a specific

agreement to that effect is made by the Director of the Governor's Office of Employee Relations and the President of the Union.

(c) The parties, GOER and NYSCOPBA, may mutually agree to waive Steps 1 and 2 of the grievance procedure. In order to better review grievances at the second step, the Employer will conduct review meetings. However, a meeting will not be held if there is mutual agreement that the file sufficiently clarifies the issue, that there is no new evidence to consider or the matter has been previously reviewed and/or resolved.

(d) Aggrieved employees, their Union representatives and necessary witnesses shall not suffer any loss of earnings, or be required to charge leave credits as a result of processing or investigating grievances during such employees' scheduled working hours. Reasonable and necessary time spent in processing and investigating grievances, including travel time, during such employees' scheduled working hours shall be considered as time worked provided, however, that when such activities extend beyond such employees' scheduled working hours, such time shall not be considered as time worked.

(e) Travel time, as used in paragraph 7.4(d) above, shall mean actual and necessary travel time, not to exceed eight hours each way.

(f) Grievances involving employees in more than one agency, upon agreement of the Director of the Governor's Office of Employee Relations and the President of the Union may be initiated at Step 3.

ARTICLE 8

Discipline

8.1 Exclusive Procedure

Discipline shall be imposed upon employees otherwise subject to the provisions of Sections 75 and 76 of the Civil Service Law only pursuant to this Article, and the procedure and remedies herein provided shall apply in lieu of the procedure and remedies prescribed by such sections of the Civil Service Law which shall not apply to employees.

8.2 Disciplinary Procedure

(a) Discipline shall be imposed only for just cause. Where the appointing authority or his designee seeks the imposition of a loss of leave credits or other privilege, written reprimand, fine, suspension without pay, reduction in grade, or dismissal from service, notice of such discipline shall be made in writing and served, in person, by courier, or by registered or certified mail upon the employee. The conduct for which discipline is being imposed and the penalty proposed shall be specified in the notice. The notice served on the employee shall contain a detailed description of the alleged acts and conduct including reference to dates, times and places, and if the Employer claims that the employee has been charged with a crime for the alleged acts, the notice of discipline must identify the specific section of the Penal Law or other statute which the Employer claims the employee has been charged with violating, if known by the Employer. The employee shall be provided with two copies of the notice which shall include the statement, "You are provided two copies in order that one may be given to your representative. Your Union representative is NYSCOPBA."

(b) The Union grievance representative at the appropriate level shall be sent a copy of the notice of discipline within 24 hours of the service of a notice of discipline

upon the employee. A copy of the notice of discipline will also be sent to the President of the Union.

(c) The penalty proposed may not be implemented until the employee (1) fails to file a disciplinary grievance within 14 days* of service of the notice of discipline, or (2) having filed a grievance, fails to file a timely appeal to disciplinary arbitration, or (3) having appealed to disciplinary arbitration, until and to the extent that it is upheld by the disciplinary arbitrator, or (4) until the matter is settled.

(d) The notice of discipline may be the subject of a disciplinary grievance which shall be served upon the department or agency head or his designee in person or by registered or certified mail within 14 days of the date of the notice of discipline by the employee or the Union. The employee or the Union shall be entitled to a meeting to present his position to the department or agency head or his designee within 14 days of the receipt of a disciplinary grievance, and upon consideration of such position, the department or agency head shall advise the Union of its response in writing by registered or certified mail within seven days of such meeting.

(e) If the disciplinary grievance is not settled or otherwise resolved, it may be appealed to disciplinary arbitration by the employee or the President of the Union (or his designee) within 14 days of the service of the department or agency head response. Notice of appeal to disciplinary arbitration shall be served, by personal service, registered or certified mail, with the Public Employment Relations Board, with a copy to the department or agency head, or his designee.

*Unless otherwise specified days as used in this Article shall mean calendar days.

(f) The Employer and the Union shall continue the procedure for the arbitration process which is now in existence as contained in the agreement with the Public Employment Relations Board dated December 28, 1979, and as amended hereinafter. Arbitration hearings may not be rescheduled without mutual consent of the parties.

(g) Either party wishing a transcript at a disciplinary arbitration hearing may provide for one at its expense and shall provide a copy to the arbitrator and the other party. Unless mutually agreed otherwise, transcripts must be requested prior to the first day of a disciplinary arbitration.

(h) Disciplinary arbitrators shall confine themselves to determinations of guilt or innocence and the appropriateness of proposed penalties, taking into account mitigating and extenuating circumstances. Disciplinary arbitrators shall neither add to, subtract from nor modify the provisions of this Agreement. The disciplinary arbitrator's decision with respect to guilt or innocence, penalty, or probable cause for suspension, pursuant to Section 8.4 of this Article, shall be final and binding upon the parties, and the disciplinary arbitrator may approve, disapprove or take any other appropriate action warranted under the circumstances, including, but not limited to, ordering reinstatement and back pay for all or part of the period of suspension. If the disciplinary arbitrator, upon review, finds probable cause for the suspension, he may consider such suspension in determining the penalty to be imposed.

(i) All fees and expenses of the arbitrator, if any, shall be divided equally between the Employer and the Union or between the Employer and the employee if such employee chooses not to be represented by the Union. Each party shall bear the costs of preparing and presenting its own case. The estimated arbitrator's fee and expenses and estimated expenses of the arbitration may be collected in advance of the hearing.

(j) In the event that any employee against whom disciplinary charges are brought by the Employer elects to be represented by any party other than the Union,

such employee shall be individually responsible for all expenses which are incurred in connection with such disciplinary proceeding. No employee can be represented in such a disciplinary proceeding by any officer, executive board member, delegate, representative or employee of any actual or claimed employee organization or affiliate thereof other than NYSCOPBA.

8.3 Settlement

A disciplinary grievance may be settled at any time following the service of a notice of discipline. The terms of the settlement shall be reduced to writing. An employee offered such a settlement shall be offered a reasonable opportunity to have his attorney or a Union representative present before he is required to execute it. The Union grievance representative at the appropriate level shall be provided with a copy of any settlement within 24 hours of its execution.

8.4 Suspension Before Notice of Discipline

(a) Prior to issuing a notice of discipline or the exhaustion of the disciplinary grievance procedure provided for in this Article, an employee may be suspended without pay by his appointing authority only pursuant to paragraphs (1) or (2) below.

(1) The appointing authority or his designee may suspend without pay an employee when the appointing authority or his designee determines that there is probable cause that such employee's continued presence on the job represents a potential danger to persons or property or would severely interfere with its operations. Such determination shall be reviewable by a disciplinary arbitrator. A notice of discipline shall be served no later than seven days following any such suspension. At the time of suspension, the appointing authority or his designee shall set forth in writing to the employee the specific reasons for the suspension.

(2) The appointing authority or his designee may with agency approval suspend without pay an employee charged with the commission of a crime. Such employee shall notify his appointing authority in writing of the disposition of any criminal

charge including a certified copy of such disposition within seven days thereof. Within 30 days following such suspension under this provision, or within seven days from receipt by the appointing authority of notice of disposition of the charge from the employee, whichever occurs first, a notice of discipline shall be served on such employee or the employee shall be reinstated with back pay. Nothing in this paragraph shall limit the right of the appointing authority or his designee to take disciplinary action during the pendency of criminal proceedings.

(3) Upon the ratification of this Agreement, in the event that an employee is suspended without pay, the employee will have the option to draw from previously accrued annual leave, personal leave, holiday leave and/or compensatory leave upon written notification to his/her supervisor.

(4) When an employee has been suspended without pay, the agency or department meeting may be waived by the employee or by the Union with the consent of the employee at the time of filing the disciplinary grievance. In the event of such waiver, the employee or the Union shall file the grievance form within the prescribed time limits for filing an agency level grievance directly with PERB. The case shall be given priority in assignment.

(5) An employee who is charged with the commission of a crime, suspended without pay and subsequently not found guilty and against whom no disciplinary action is taken for the incident in question, shall be reinstated with full back pay.

(6) During a period of suspension without pay pursuant to this section, the State shall continue to pay its share of the cost of the employee's health, dental and vision care coverage under Article 12 which was in effect on the day prior to the suspension provided that the suspended employee pay his or her share.

(b) A registered or certified letter notifying the President of the Union of any suspension under paragraph 8.4(a) above shall be sent within one day, excluding Saturdays, Sundays and holidays.

(c) **Back Pay Award**

Where an employee is awarded back pay, the amount to be reimbursed will be offset by unemployment insurance collected by the employee during the period that the back pay award covers. An award of back pay shall be deemed to include reimbursement of all other benefits including the accrual of leave credits and holiday leave.

8.5 Union Representation

An employee shall be entitled to be represented at a disciplinary grievance meeting or arbitration by a chief sector steward or designee. Such representatives shall not suffer any loss of earnings or be required to charge leave credits as a result of processing or investigating disciplinary grievances during such chief sector steward's or designee's scheduled working hours. Reasonable and necessary time spent in processing and investigating grievances, including travel time, during such chief sector steward's or designee's scheduled working hours shall be considered as time worked provided, however, that when such activities extend beyond such chief sector steward's or designee's scheduled working hours, such time shall not be considered as time worked. On the employee's prior written request at least 48 hours in advance, the Employer will make every effort to reschedule shift assignments so that meetings fall during working hours of Union representatives. Union staff may be present at disciplinary grievance meetings and arbitration proceedings.

8.6 Limitation

An employee shall not be disciplined for acts, except those which would constitute a crime, which occurred more than nine months prior to the service of the

notice of discipline. The employee's whole record of employment, however, may be considered with respect to the appropriateness of the penalty to be imposed, if any.

8.7 Other Actions

Shift, pass day, job transfer or other reassignment or assignments to another institution or work station shall not be made for the purpose of imposing discipline provided, however, that nothing in this section shall bar any action otherwise taken pursuant to this Article. A claimed violation of this section will be processed as an Article 7 grievance.

8.8 Expedited Discipline Procedure

(a) This is to confirm the agreement between the parties to establish an Expedited Disciplinary Arbitration Procedure (Procedure) for the members of the Security Services Unit for the term of the Agreement as outlined in Article 1. Any cases already in the program at that time will continue. The Procedure shall commence for interest arbitration eligible employees 90 days after the ratification of the Agreement. The Procedure will commence for the remaining unit employees on January 1, 2013.

(b) As soon as possible after the effective date of this agreement, the parties shall select arbitrators to serve on the expedited arbitration panel. This Panel will be administered by the New York State Public Employment Relations Board or other mutually agreed upon administrator. The Panel shall be administered pursuant to criteria to be developed by the parties which shall include specific guidelines to the arbitrators on the authority to grant or deny extensions of time frames over the objection of a party to the dispute. The initial arbitrator selection will occur by rotation. If an arbitrator on the panel does not have an available hearing date within the time frames specified by this procedure, the next arbitrator on the panel with an available date will be selected in accordance with the criteria developed by the parties.

(c) All disciplinary grievances involving the suspension without pay of an employee pursuant to Article 8.4 may be submitted by the employee or the Union to expedited arbitration. The Department will not regularly nor unreasonably deny the submission to expedited arbitration. Except as expressly altered by this side agreement, the substantive and procedural provisions of Article 8 remain in effect.

(d) The time limits in Article 8.2(d) for filing a disciplinary grievance remain applicable under this procedure. The employee or the Union still must file a disciplinary grievance within 14 calendar days of the date of the notice of discipline, either by personal service or by registered or certified mail.

(e) Within 14 calendar days of the date the disciplinary grievance is mailed, or if personally served, the date of service, the Union, or the employee if not represented by the Union, may provide written notice to the department or agency head or designee that the grievance is submitted to the expedited arbitration procedure. This notice must be provided by personal service or by registered or certified mail, and is effective when served or mailed. In addition, a copy of this written notice shall simultaneously be provided to the administrator of the expedited arbitration panel. If the department or agency cannot accept the submission for expedited arbitration, the department or agency head or designee has 7 calendar days of receipt of the notice to inform the union, or employee if the employee is not represented by the Union, of the reasons that the matter cannot be accepted for expedited arbitration or to agree to extended timeframes that are mutually acceptable to the parties if the department or agency can accommodate such request to extend such timeframes.

(f) The department or agency head or designee shall, within 15 business days of receipt of the notice of expedited arbitration, provide to the employee's representative a list of witnesses the employer might call on its direct case at the hearing, copies of any written statements in the possession of the employer made by those witnesses, copies of any written statement in the employer's possession made by the grievant, copies of

any other documents the employer intends to introduce at the hearing. If the employer might introduce such documents at the hearing, the employer shall also provide a copy of the grievant's performance evaluations and copies of his or her prior disciplinary charges, awards or settlements. If the hearing is scheduled within 15 business days of the receipt of notice of expedited arbitration, the department or agency head or designees shall have one-half the number of days between the receipt of notice and the hearing date to provide the information. If this results in a number involving a part of a day the number shall be rounded up. After the information is provided, to the extent that the employer determines that additional witnesses will be called or that additional documents will be produced, the employer will provide this information to the employee's representative at least two business days before the hearing unless such witnesses or documents are not known at the time.

(g) Within 15 business days after receipt of the above information from the employer, but in any event no fewer than five calendar days prior to the date of the hearing, the employee or employee's representative will provide to the employer a list of potential witnesses the employee or employee's representative might call at the hearing, as well as copies of any documents that the employee or employee's representative intends to introduce at the hearing.

(h) The names of rebuttal witnesses shall be provided in advance of the hearing whenever possible. In the event that an additional hearing date is scheduled for the purpose of rebuttal, the names of rebuttal witness shall be exchanged at least 3 business days prior to the hearing.

(i) The arbitrator is expressly authorized to hear and determine any disputes arising out of the obligations of the parties to exchange the information and documents referenced in paragraphs 6, 7, and 8 above, and will be guided by the criteria provided by the parties in doing so. However, the arbitrator shall not have any authority to dismiss either party's case nor bar use of such information and documents for a failure

to comply with the time frames in those paragraphs but will have the authority to take other appropriate remedial action.

(j) The hearing under this procedure must be completed within 90 calendar days of the filing of the notice of expedited arbitration. The parties are encouraged to stipulate to any facts not in dispute. Closing arguments may be oral or written, but if written, must be submitted within five business days of the close of the hearing. The arbitrator shall make an award within 10 business days of the close of the hearing or receipt of closing arguments, where applicable.

(k) The parties may mutually agree to extend any of the time limits in this procedure. In the event that an agreement on a time extension cannot be reached, the arbitrator is expressly authorized to determine, based on criteria provided by the parties, whether to grant or deny the extension, and under what conditions, including whether to grant or deny a request to return an employee to the payroll or toll backpay to an employee for any period of delay caused by the requested extension.

(l) Business days are defined as Monday through Friday excluding all holidays referenced in Article 16.5 except Election Day and Lincoln's Birthday.

ARTICLE 9
Out-of-Title Work

9.1(a) No employee shall be employed under any title not appropriate to the duties to be performed and, except upon assignment by proper authority during the continuance of a temporary emergency situation, no person shall be assigned to perform the duties of any position unless he has been duly appointed, promoted, transferred or reinstated to such position in accordance with the provisions of the Civil Service Law, Rules and Regulations.

(b) The term "temporary emergency" as used in this Article shall mean an unscheduled or non-periodic situation or circumstance which is expected to be of limited duration and either (a) presents a clear and imminent danger to person or property, or (b) is likely to interfere with the conduct of the agency's or institution's statutory mandates or programs.

9.2(a) Grievances alleging violation of this Article shall be processed pursuant to Article 7, paragraph 7.1(b), and shall be filed utilizing an out-of-title grievance form.

(b) If appealed to Step 3, the Director of the Governor's Office of Employee Relations shall seek an opinion from the Director of Classification and Compensation concerning whether or not the assigned duties which are the subject of the grievance are substantially different from those appropriate to the title to which the employee is certified. The Union shall be given the opportunity to present to the Director of Classification and Compensation, a written brief of the facts surrounding the grievance. The Director of Classification and Compensation shall, within 60 calendar days of the

filing of the appeal, forward his opinion to the Director of the Governor's Office of Employee Relations, and the Union, for implementation.

(c) If it is the opinion of the Director of Classification and Compensation that the assigned duties which are the subject of the grievance are substantially different from those appropriate to the title to which the employee is certified, the Director of the Governor's Office of Employee Relations, or his designee, shall direct the appointing authority forthwith to discontinue such assigned duties.

(1) If such substantially different duties are found to be appropriate to a lower salary grade or to the same salary grade as that held by the affected employee, no monetary award may be issued.

(2) If, however, such substantially different duties are found to be appropriate to a higher salary grade than that held by the affected employee, the Director of the Governor's Office of Employee Relations shall issue an award of monetary relief. The amount of monetary relief shall be the difference between what the affected employee was earning at the time he performed such duties and what he would have earned at that time in the entry level of the higher salary grade title, but in no event shall such monetary award be retroactive to a date earlier than 15 calendar days prior to the date the grievance was filed in accordance with this Agreement.

ARTICLE 10

Review of Personal History Folder

10.1 For the purposes of this Article, there shall be one official personal history folder maintained for an employee. An employee shall, within five working days of a written request to his department, agency or institution, have an opportunity to review his official personal history folder in the presence of a local Union representative (if requested by the employee) and an appropriate official of the department, agency or institution. Such right shall not be abused. The employee shall be allowed to place in such file a response of reasonable length to anything contained therein which such employee deems to be adverse.

10.2 The official personal history folder shall contain all memoranda or documents relating to such employee which contain criticism, commendation, appraisal or rating of such employee's performance on his job. Copies of such memoranda or documents shall be sent to such employee simultaneously with their being placed in his official personal history folder.

10.3 An employee may, at any time, request and be provided copies of all documents and notations in his official personal history folder of which he has not previously been given copies. If such file is maintained at a location other than the region or facility in which the employee works, it shall be forwarded to the employee's region or facility for requested review by the employee.

10.4 With the exception of disciplinary actions or annual work performance ratings, any material in the official personal history folder of an adverse nature, over one (1) year old may, upon the employee's written request, be removed from the official personal history folder by mutual agreement of the employee and the appropriate agency representative. This does not preclude the earlier removal of such material.

10.5 Upon an employee's written request, a counseling memorandum over three years old shall be removed from the official personal history folder, provided that the employee has received no additional counseling memoranda or notice of discipline during that period. Any reference to such counseling memorandum appropriately removed shall not be contained in the official personal history folder.

10.6 Counseling of employees shall be carried out pursuant to Appendix C and grievances regarding the application of said Appendix shall be processed pursuant to Article 7, paragraph 7.1(b).

10.7 Documents which have been removed from the official personal history folder pursuant to Section 10.4 or 10.5 shall not be admitted as evidence in a subsequent disciplinary arbitration for that employee.

10.8 Except as specifically prohibited by law and requests related to official State purposes or government investigations, an employee shall be notified of requests for access to the employee's personal history folder. For the purpose of this Article, a lawsuit against an employee or the State shall not be deemed an official State purpose. Said notification shall be at least 72 hours prior to the requested access provided, however, a validly issued subpoena may still be satisfied by the Employer. Notwithstanding anything to the contrary, the Employer may respond to a matter in pending litigation without giving an employee 72 hours notice where the matter necessitates an immediate response. Under those circumstances notice to the employee will be given as quickly as possible. Release of employment and income information in connection with employee credit applications need not be reported to the employee.

ARTICLE 11
Compensation

Certain terms in this Article apply only to employees who are ineligible for Interest Arbitration pursuant to Civil Service Law Section 209(4) on the date of the execution of this Agreement as indicated by the phrase (Interest Arbitration ineligible employees). Other terms apply only to employees eligible for Interest Arbitration pursuant to Civil Service Law 209(4) on the date of execution of this Agreement as indicated by the phrase (Interest Arbitration eligible employees). Where neither phrase is used, the terms of the article apply to all eligible unit employees.

11.1 Legislation

The Employer shall prepare, secure introduction and recommend passage by the Legislature of appropriate legislation in order to provide the benefits described in this Article.

11.2A General Salary Increase

(a) Salary Increase for Fiscal Year 2009-10

Effective April 1, 2009, the basic annual salary of employees in full-time annual salaried employment status on March 31, 2009, will be increased by 3 percent.*

(b) Salary Increase for Fiscal Year 2010-11

Effective April 1, 2010, the basic annual salary of employees in full-time annual salaried employment status on March 31, 2010, will be increased by 4 percent.*

(c) Salary Increase for Fiscal Year 2014-15

Effective April 1, 2014, the basic annual salary of employees in full-time annual salaried employment status on March 31, 2014, will be increased by 2 percent.*

(d) Salary Increase for Fiscal Year 2015-16

Effective April 1, 2015, the basic annual salary of employees in full-time annual salaried employment status on March 31, 2015, will be increased by 2 percent.*

(e) Other Than Annual Salary Employees

The above provisions shall apply on a prorated basis to employees paid on an hourly or per diem basis or on any basis other than at an annual salary rate or to an employee serving on a part-time basis.

11.2B Retention Payment

Employees who are active as of the date of ratification of the contract and who remain in continuous service, as defined by paragraph (c) of subdivision 3 of section 130 of the Civil Service Law, through the date of the first payment in fiscal year 2013-2014, shall be eligible for a \$1000 retention payment payable as follows:

- \$775 lump sum cash payment payable in the first pay period of fiscal year 2013-2014
- \$225 lump sum cash payment payable in the first pay period of fiscal year 2014-2015

11.3 Advancement within a Salary Grade

(a) An employee whose salary is below the job rate is eligible to be considered for a performance advancement payment. Such employee is eligible to receive a performance advancement payment effective April 1* provided the employee had 100 workdays of actual service in grade during the preceding fiscal year. An employee may not exceed the job rate as a result of adding the performance advancement payment.

(b) Employees will advance to the job rate of the salary grade based on periodic evaluations of work performance. These evaluations will be conducted at least annually.

(c) Employees are to be advanced in salary annually based on a performance evaluation of “needs improvement” or better in an amount equivalent to the dollar difference between two consecutive advancement rates. This amount of money is hereafter called the performance advancement payment and is added to basic annual salary.

(d) A performance advancement payment shall be withheld from an employee who is evaluated “unsatisfactory.” An individual employee may not be assigned an “unsatisfactory” rating more than twice in a row for the purpose of withholding a performance advancement payment in the employee’s current salary grade.

11.4 Promotions

Employees who are promoted, or appointed to a higher salary grade will be paid at the hiring rate of the higher grade or will receive a percentage increase in base pay determined as indicated below, whichever results in a higher salary.

<u>For a Promotion of</u>	<u>An Increase of</u>
1 Grade	3.0%
2 Grades	4.5%

3 Grades	6.0%
4 Grades	7.5%
5 Grades	9.0%

An employee who is promoted or appointed to a higher salary grade and whose resulting salary is between the hiring rate and the job rate of the grade shall be advanced as described above.

11.5 Movement to a Lower Salary Grade

(a) Permanent employees whose positions are reclassified or reallocated to a lower salary grade will not be reduced in salary.

(b) Employees, except those covered above, who move to a lower salary grade will be placed at a rate in the lower grade which corresponds to their combined performance advancement in both the higher and the lower salary grades.

(c) Employees who move to a lower salary grade and whose salary is below the job rate will be eligible for performance advancements to the job rate as described above.

11.6 Longevity Payments

(a) Longevity payments as set out in the salary schedule in Appendix A-1 (Interest Arbitration ineligible employees) and Appendix A-2 (Interest Arbitration eligible employees) will be provided to eligible employees upon completion of 10, 15, 20 and 25 years of continuous service. Continuous service shall mean time in a title or combination of titles which have existed and/or presently exist in the Security Services Unit, Agency Police Services Unit or Security Supervisors Unit. Such payment will be added to base pay effective on the payroll period which next begins following the actual completion of 10, 15, 20 and 25 years of continuous service.

(b) In no event may an employee's basic annual salary exceed the longevity maximum of the salary grade as the result of the longevity payment or adjustment.

(c) Employees whose basic annual salary after the application of the general increase and implementation of the new salary schedule is above the job rate will be considered to have received longevity payments in the amount by which their basic annual salary exceeds the job rate for their grade.

(d) Such longevity payments will be added to and considered part of base pay for all purposes except for determining an employee's change in salary upon movement to a different salary grade and his potential for movement to the job rate of the new grade, after which determination the appropriate longevity payments will be restored.

(e) The longevity amount for all employees will be adjusted to reflect the longevity payments which are appropriate to their current salary grade.

11.7 Locational Compensation and Inconvenience Pay

(a) Location Adjustment

(1) Interest Arbitration Ineligible employees. Eligible employees in New York City, Nassau, Rockland, Suffolk and Westchester Counties will receive a Downstate Adjustment in addition to their basic annual salary. Eligible employees in Orange, Dutchess, and Putnam Counties will receive a Mid-Hudson Adjustment in addition to their basic annual salary.

The Downstate Adjustment and the Mid-Hudson Adjustment will be as follows:

	Downstate Adjustment	Mid-Hudson Adjustment
April 1, 2009*	\$1591	\$849
April 1, 2010*	\$1655	\$883

April 1, 2011*	\$1655	\$883
April 1, 2012*	\$1655	\$883
April 1, 2013*	\$1655	\$883
April 1, 2014*	\$1688	\$901
April 1, 2015*	\$1722	\$919

(2) Interest Arbitration eligible employees. Eligible employees in New York City, Nassau, Rockland, Suffolk and Westchester Counties will receive a Downstate Adjustment in addition to their basic annual salary. Eligible employees in Orange, Dutchess, and Putnam Counties will receive a Mid-Hudson Adjustment in addition to their basic annual salary.

The Downstate Adjustment and the Mid-Hudson Adjustment will be as follows:

	Orange, Putnam Dutchess	NYC, Rockland, Nassau, Suffolk Westchester
April 1, 2009*	\$1231	\$3306
April 1, 2010*	\$1280	\$3438
April 1, 2011*	\$1280	\$3438
April 1, 2012*	\$1280	\$3438
April 1, 2013*	\$1280	\$3438
April 1, 2014*	\$1280	\$3438
April 1, 2015*	\$1280	\$3438

(3) Employees in Monroe County receiving \$200 location pay on March 31, 1985 will continue to receive it throughout the Agreement only as long as they are otherwise eligible.

(b) Inconvenience pay

(1) Effective April 1, 2009, for Interest Arbitration ineligible employees of this unit who are full-time annual salaried employees, the present inconvenience pay program shall be increased to \$602 per year to employees who work four (4) hours or more between 6:00 p.m. and 6:00 a.m., except on an overtime basis, and will be continued as

provided in Chapter 333 of the Laws of 1969 as amended. Effective April 1, 2010, that amount shall be increased to \$626.

(2) (i) Effective April 1, 2009, Interest Arbitration eligible employees in this unit who are full-time annual salaried employees and who are assigned to work the night shift, as defined by the facility, shall receive \$927 per year for work on such shift. Effective April 1, 2010 that amount shall be increased to \$964. Effective April 1, 2014 that amount shall be increased to \$983. Effective April 1, 2015 that amount shall be increased to \$1003.

(ii) Effective April 1, 2009, Interest Arbitration eligible employees in this unit who are full-time annual salaried employees and who are assigned to work the evening shift, as defined by the facility, shall receive \$1854 per year for work on such shift. Effective April 1, 2010 that amount shall be increased to \$1928. Effective April 1, 2014 that amount shall be increased to \$1966. Effective April 1, 2015 that amount shall be increased to \$2006.

11.8 Pre-Shift Briefings

(a) For Interest Arbitration ineligible employees only, in recognition of the fact that employees, as is the present practice, are generally required to assemble for briefing for 15 minutes prior to the commencement of their tours of duty, each employee shall be paid at least \$1,560 per year as overtime (prorated based on length of paid service in each fiscal year) or pursuant to the Budget Director's Rules and Regulations for overtime compensation, whichever is greater. Such payment shall be in lieu of all other payments and compensation for that time worked. The Employer further agrees that when such an employee is required and authorized to assemble for briefing or lineup on a daily basis in excess of 15 minutes before the commencement of his tour of

duty, such time actually worked in excess of 15 minutes shall be considered to be time worked for the purpose of computing overtime.

(b) For Interest Arbitration eligible employees only, effective April 1, 2010, all members of this unit who are employed by the state department of corrections and community supervision and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, are full time annual salaried employees, shall be paid at least \$2,080 per year as overtime (prorated based on length of paid service in each fiscal year) or pursuant to the Budget Director's Rules and Regulations for overtime compensation, whichever is greater. Such payment shall be in lieu of all other payments and compensation for that time worked.

11.9 Security and Law Enforcement Differential (Interest Arbitration ineligible employees)

The Employer shall provide a security and law enforcement differential to full-time annual salaried employees in recognition of their enhanced security and law enforcement responsibilities inherent in the positions covered by this Agreement. Such payment shall be \$682 for the period beginning 4/1/09, and increased to \$709 per year beginning 4/1/10. Effective 3/31/2011, the security and law enforcement differential shall be increased to \$1000, rolled into base and eliminated as a separate payment. .

11.10 Facility Security Pay (Interest Arbitration ineligible employees)

The employer shall continue to provide Facility Security pay in the amount of \$530 per year until 3/31/2011. Such amount shall be increased to \$750 on 3/31/2011. Such payments shall not be added to base salary but shall be made biweekly.

11.11 Expanded Duty Pay (Interest Arbitration eligible employees)

Effective April 1, 2009, all members of this unit who are employed by the state department of corrections and community supervision and are designated as peace officers to subdivision twenty-five of section 2.10 of the criminal procedure law, shall continue to be paid an expanded duty payment in the amount of \$1500 per year. This amount shall be increased to \$2600 effective March 31, 2011. These payments will be equally divided over the 26 payroll periods in that fiscal year and shall count as compensation for overtime and retirement purposes.

11.12 Retroactive wage payments

Wage payments shall be retroactive as indicated in this agreement. All retroactive wage payments shall be reduced by the amount of the adjustment of health insurance premium share retroactive to October 1, 2011 and the value of 9 days of deficit reduction leave, or the amount credited to an employee. The 9 days of deficit reduction leave shall reflect five days of deficit reduction leave for fiscal year 2011-2012 and four days of deficit reduction leave for fiscal year 2012-2013. Reductions in retroactive wages will be computed on an individual employee basis. If there are insufficient retroactive wages to pay for all Deficit Reduction Leave days, regular bi-weekly paychecks will be reduced by the value of the Deficit Reduction Leave days, in equivalent amounts, over the pay periods then remaining through March 31, 2013. For those employees with insufficient retro pay to cover retroactive health insurance premium, in accordance with the Department of Civil Service administrative procedures,

\$100 will be deducted from employee paychecks until the full retroactive premium is paid.

*Such increases shall become effective the payroll period nearest to the stated date, as provided in New York State Finance Law Section 44(8).

ARTICLE 12

Health, Dental and Prescription Drug Insurance

12.1 The State shall continue to provide all the forms and extent of coverage as defined by the contracts and Interest Arbitration Awards in force on March 31, 2009 with the State health and dental insurance carriers unless specifically modified or replaced pursuant to this Agreement.

Eligibility

12.2(a)(1) A permanent full-time employee who loses employment as a result of the abolition of a position shall continue to be covered under the State Health Insurance Plan for one year following such layoff or until re-employment by the State or employment by another employer, in a benefits eligible position, whichever occurs first. The premium contribution required of preferred list eligibles for such continuation shall be the same as the premium contribution required of an active employee.

12.2(a)(2) Covered dependents of employees who are activated for military duty as a result of an action declared by the President of the United States or Congress shall continue health insurance coverage with no employee contribution for a period not to exceed 12 months from the date of activation, less any period the employee remains in full pay status. Contribution free health insurance coverage will end at such time as the employee's active duty is terminated, 12 months have expired, or the employee returns to State employment whichever occurs first.

12.2(a)(3) Covered dependent students shall be provided with a three month extended benefit period upon graduation from a qualified course of study. Effective April 1, 2010 covered dependent students shall be provided with a 3-month extended benefit period upon completion of each semester as a covered full-time student (or equivalent). The benefit extension will begin on the first day of the month in which dependent student coverage would otherwise end and will last for three months or until such time as eligibility would otherwise be lost under existing plan rules. Effective January 1, 2012, pursuant to the 2010 Federal Patient Protection and Affordable Care Act, dependents up to age 26 shall be eligible for health insurance, including prescription drug benefits.

12.2(a)(4) Domestic Partners who meet the definition of a partner and can provide acceptable proofs of financial interdependence, as outlined in the Affidavit of Domestic Partnership and Affidavit of Financial Interdependency shall continue to be eligible for health care coverage.

12.2(a)(5) Effective April 1, 2010 a permanent full-time employee who is removed from the payroll due to an assault as described in Article 14.9 and is granted Workers' Compensation for up to 24 months shall remain covered under the State Health Insurance Plan for the same duration and will be responsible for the employee share of premium.

Benefits Management Program

12.3(a)(1) Pre-certification will be required for all elective inpatient confinements and prior to certain specified medical procedures to provide an opportunity for a review

of diagnostic procedures for appropriateness of setting and effectiveness of treatment alternatives.

12.3 (a)(2) Pre-certification will be required prior to maternity admissions in order to highlight appropriate prenatal services and reduce costly and traumatic birthing complications.

12.3 (a)(3) A call to the Benefits Management Program will be required within 48 hours of admission for all emergency or urgent admissions to permit early identification of potential "case management" situations.

12.3 (a)(4) Precertification will be required prior to an admission to a Skilled Nursing Facility (SNF).

12.3 (a)(5) The hospital deductible amount imposed for non-compliance with pre-certification requirements will be \$200. This deductible will be fully waived in instances where the medical record indicates that the patient was unable to make the call. In instances of non-compliance, a retroactive review of the necessity of services received shall be performed.

12.3 (a)(6) Any day deemed inappropriate for an inpatient setting and/or not medically necessary after exhausting the internal and external appeal processes will be excluded from coverage under the Empire Plan.

12.3 (a)(7) The Prospective Procedure Review Program (PPR) will screen for the medical necessity of certain listed diagnostic procedures which, based on Empire Plan experience, have been identified as potentially unnecessary or over-utilized.

12.3 (a)(8) The Empire Plan Benefits Management Program Prospective

Procedure Review requirement will include Magnetic Resonance Imaging (MRI). The list of procedures will undergo annual evaluation by the Medical Carrier.

Effective April 1, 2010 a more managed approach to radiological procedures will be implemented.

- The Medical Component Insurer will improve the effectiveness of the benefit by re-enforcing credentialing requirements and “best practices” with Radiologists and other providers involved in providing radiological services to Empire Plan enrollees.

- The current Prospective Procedure Review notification requirement for MRIs will expand to include CAT and PET scans, nuclear medicine and MRAs performed at the outpatient department of a hospital, a participating provider office or a free-standing facility.

- * Enrollees will be required to call the Benefits Management Program for Pre-certification when a listed procedure is recommended. Enrollees will be requested to call two weeks before the date of the procedure.

- * Current co-insurance levels will apply for failure to comply with the requirements of the Prospective Procedure Review Program.

12.4(a)(1) The copayment for emergency room services is \$60. Effective October 1, 2012, the copayment for emergency room services will increase to \$70. Outpatient services covered by the hospital contract are subject to a \$35 copayment per outpatient visit.

Effective October 1, 2012, outpatient services covered under the hospital contract will be subject to a \$40 copayment per outpatient visit.

The Emergency room and hospital outpatient copayment will be waived for persons admitted to the hospital as an inpatient directly from the outpatient setting, and for the following covered chronic care outpatient services: chemotherapy, radiation therapy, and hemodialysis. Effective October 1, 2012, hospital outpatient surgery will be subject to a \$60 copayment.

12.4(a)(2) Coverage for services provided in the outpatient department of a hospital include services provided in a remote location of the hospital (hospital owned and operated extension clinics). Emergency care provided in such remote location of the hospital is subject to the \$60 emergency room copayment. Effective October 1, 2012, the emergency room copayment will increase to \$70. Outpatient services provided in such remote location of the hospital are subject to the \$35 outpatient hospital copayment. Effective October 1, 2012, the outpatient hospital copayment in such remote location will increase to \$40 and the outpatient surgery copayment will increase to \$60. These copayments will be waived for persons admitted to the hospital as an inpatient directly from the outpatient setting.

12.4(a)(3) The copayment for all pre-admission testing/pre-surgical testing prior to an inpatient admission will be waived.

12.4(a)(4) The Hospital component (inpatient and outpatient services) of the Empire Plan is as follows:

- The Hospital carrier will establish a network of hospitals (acute care general hospitals, skilled nursing facilities and hospices) throughout the United States.

- Any hospital that does not enter into a participating agreement with the hospital carrier will be considered to be a non-network facility.
- Covered inpatient services received at a network hospital will be paid-in-full. Covered outpatient services (outpatient lab, x-ray, etc. and emergency room) received at a network hospital will be subject to the appropriate copayment.
- Covered inpatient services received at a non-network hospital will be reimbursed at 90 percent of charges. There will be a separate \$1500 annual Hospital coinsurance maximum per enrollee, enrolled spouse/domestic partner and all dependent children combined established for non-network hospital out-of-pocket expenses.
- The \$1500 Hospital coinsurance maximum is for non-network hospital expenses only and cannot be combined with any coinsurance maximums for other Empire Plan components. Effective January 1, 2012, the \$1500 hospital coinsurance maximum for non-network hospital expenses will be combined with coinsurance maximums for other Empire Plan components.
- Covered outpatient services received at a non-network hospital will be reimbursed at 90 percent of charges or a \$75 copayment whichever is greater. The non-network outpatient coinsurance will be applied toward the \$1500 annual coinsurance maximum.
- Once the enrollee, enrolled spouse/domestic partner or all dependent children combined have incurred \$500 in non-network expenses, a claim may be filed with the medical carrier for reimbursement of out-of-pocket non-network expenses incurred above the \$500 and up to the balance of the coinsurance

maximum. Effective January 1, 2010 the maximum \$1000 reimbursement under the Basic Medical Program will be reduced to \$500. Effective October 1, 2012, the \$500 reimbursement under the Basic Medical Program will be eliminated.

- Services received at a non-network hospital will be reimbursed at the network level of benefits under the following situations:
 - Emergency outpatient/inpatient treatment;
 - Inpatient/outpatient treatment only offered by a non-network hospital; and
 - Inpatient/outpatient treatment in geographic areas where access to a network hospital exceeds 30 miles or does not exist.
 - Care received outside of the US
- Anesthesiology, pathology and radiology services received at a network hospital will be paid-in-full less any appropriate copayment even if the provider is not participating in the Empire Plan participating provider network under the medical component.

Medical Services

12.5 The Empire Plan shall include medical/surgical coverage through use of participating providers who will accept the Plan's schedule of allowances as payment in full for covered services. Except as noted below, benefits will be paid directly to the provider at 100 percent of the Plan's schedule not subject to deductible or coinsurance.

12.5(a)(1) Office visit charges by participating providers are subject to an \$18 copayment per covered individual. Effective April 1, 2010 the copayment for participating provider office visits will increase to \$20.

Covered surgical procedures rendered by participating providers are subject to an \$18 copayment. Effective April 1, 2010 the copayment for participating provider office surgery will increase to \$20.

12.5 (a)(2) All covered radiology services rendered by participating providers are subject to an \$18 copayment per covered individual. Effective April 1, 2010 the copayment for participating provider radiology services will increase to \$20.

All covered outpatient laboratory services rendered by participating providers are subject to an \$18 copayment per covered individual. Effective April 1, 2010 the copayment for participating provider laboratory services will increase to \$20. All covered services provided at a participating ambulatory surgical center are subject to a \$30 copayment by the enrollee. All anesthesiology, radiology and laboratory tests performed on-site on the day of surgery shall be included in this single copayment.

The office visit, office surgery, outpatient radiology and laboratory copayment amounts may be applied against the basic medical coinsurance maximum, however, they will not be considered covered expenses for basic medical payment.

12.5 (a)(3) Effective October 1, 2012, the Empire Plan medical carrier will implement a Guaranteed Access Program for primary care physicians and core provider specialties. Under the Guaranteed Access Program, if there are no participating providers available within the access standards, enrollees will receive paid-in-full benefits (less any appropriate copayment).

12.5(b) The State shall require the insurance carriers to continue to actively seek new participating providers in regions that are deficient in the number of participating providers, as determined by the Joint Committee on Health and Dental Benefits.

12.5(c) The Empire Plan participating provider schedule of allowances and the basic medical reasonable and customary levels will be no less than the levels in effect on March 31, 1995.

12.5(d) Covered charges for medically appropriate local professional ambulance transportation will be a covered major medical expense subject only to a \$35 copayment. Volunteer ambulance transportation will continue to be reimbursed for donations at the current rate of \$50 for under 50 miles and \$75 for 50 miles or over. These amounts are not subject to deductible or coinsurance.

12.5(e) The basic medical component deductible shall be \$271 per enrollee; \$271 per enrolled spouse; and \$271 per all dependent children combined plus an annual percentage increase effective January 1, 2003, and thereafter on each successive January 1, in an amount equal to the percentage increases in the medical care component of the CPI for Urban Wage Earners and Clerical Workers, All Cities (CPI-W) for the period July 1 through June 30 of the preceding year. Effective October 1, 2012, the Basic Medical component annual deductible shall be \$1,000 per enrollee, \$1,000 per enrolled spouse/domestic partner, and \$1,000 per all dependent children combined. Effective October 1, 2012, the Basic Medical component annual deductible for employees in a title Salary Grade 6 or below, or an employee equated to a position title Salary Grade 6 or below, shall be \$500 per enrollee, \$500 per enrolled spouse/domestic partner, and \$500 per all dependent children combined. Effective October 1, 2012,

covered expenses for basic medical services, mental health and/or substance abuse treatments and home care advocacy services will be included in determining the basic medical component deductible. Covered expenses for physical medicine services are excluded in determining the basic medical component deductible.

12.5(f) The basic medical component shall pay 80 percent reimbursement of reasonable and customary charges for covered expenses in a calendar year until the coinsurance maximum is reached, then 100 percent of reasonable and customary covered expenses as described below. Effective January 1, 2010 the maximum annual co-insurance out-of-pocket expense under the basic medical component will be \$800 per enrollee; \$800 per enrolled spouse or domestic partner; and \$800 for all dependent children combined.

Effective January 1, 2011 and on each successive January 1, the maximum annual coinsurance out-of-pocket expense will increase by a percentage amount equal to the percentage increase in the medical care component of the CPI for Urban Wage Earners and Clerical Workers, All Cities (CPI-W) for the period July 1 through June 30 of the preceding year. Effective October 1, 2012, the combined annual coinsurance maximum will increase to \$3,000 per enrollee, \$3,000 for the enrolled spouse/domestic partner, and \$3,000 for all dependent children combined. Effective October 1, 2012, for employees in a title Salary Grade 6 or below, or an employee equated to a title position Salary Grade 6 or below, the combined annual coinsurance maximum shall be \$1,500 per enrollee, \$1,500 per enrolled spouse/domestic partner, and \$1,500 per all dependent children combined.

Covered expenses for home care advocacy services and physical medicine services are excluded in determining the maximum annual coinsurance limit.

12.5 (g) Effective October 1, 2011, covered preventive care services, as defined in the 2010 Federal Patient Protection and Affordable Care Act, shall be paid-in-full (not subject to copayment) when received from a participating provider.

12.5 (h) Effective October 1, 2012, licensed and certified nurse practitioners and convenience care clinics will be available as participating providers in the Empire Plan subject to the applicable participating provider copayment.

12.6 NYSCOPBA Empire Plan Enhancements

In addition to the basic Empire Plan benefits, the Empire Plan for NYSCOPBA enrollees shall include:

(a) The State agrees to continue to provide alternative Health Maintenance Organization (HMO) coverage.

(b) The annual and lifetime maximum for each covered person under the basic medical component shall be unlimited.

(c) Routine pediatric care including all preventive pediatric immunizations, both oral and injectable, shall be considered a covered medical expense under the participating provider component and the basic medical component. Influenza vaccine will be on the list of pediatric immunizations, subject to appropriate protocols, under the participating provider and basic medical components of the Empire Plan.

(d) The newborn care allowance under the basic medical component shall not be subject to deductible or coinsurance.

(e) The Pre-Tax Contribution Program will continue unless modified or exempted by the Federal Tax Code.

(f) An employee retiring from State service may delay commencement or suspend his/her retiree health coverage and the use of the employee's sick leave conversion credits, provided that the employee applies for the delay or suspension, and furnishes proof of continued coverage under the health care plan of the employee's spouse, or from post-retirement employment. The surviving spouse of a retiree who dies while under a delay or suspension may transfer back to the State Health Insurance Plan on the first of any month coinciding with or following the retiree's death.

For Interest Arbitration eligible employees only, retirements occurring on and after October 1, 2012, the actuarial table used to calculate the employees sick leave credit toward health insurance in retirement shall be the life expectancy tables for corrections officers.

(g) Office visit charges by participating providers for well childcare will be excluded from the office visit copayment.

(h) Charges by participating providers for professional services for allergen immunotherapy in the prescribing physician's office or institution and chronic care services for chemotherapy, radiation therapy, or hemodialysis will be excluded from the office visit copayment.

(i) In the event that there is both an office visit charge and office surgery charge by a participating provider in any single visit, the covered individual will be subject to a single copayment.

(j) Outpatient radiology services and laboratory services rendered during a single visit by the same participating provider will be subject to a single copayment.

(k) Dual Annuitant Sick Leave Credit

An employee who is eligible to continue health insurance coverage upon retirement and who is entitled to a sick leave credit to be used to defray any employee contribution toward the cost of the premium, may elect an alternative method of applying the basic monthly value of the sick leave credit.

Employees selecting the basic sick leave credit may elect to apply up to 100 percent of the calculated basic monthly value of the credit toward defraying the required contribution to the monthly premium during their own lifetime. If employees who elect that method predecease their eligible covered dependents, the dependents may, if eligible, continue to be covered, but must pay the applicable dependent survivor share of the premium.

Employees selecting the alternative method may elect to apply only up to 70 percent of the calculated basic monthly value of the credit toward the monthly premium during their own lifetime. Upon the death of the employee, however, any eligible surviving dependents may also apply up to 70 percent of the basic monthly value of the sick leave credit toward the dependent survivor share of the monthly premium for the duration of the dependents' eligibility. The State has the right to make prospective changes to the percentage of credit to be available under this alternative method for future retirees as required to maintain the cost neutrality of this feature of the plan.

The selection of the method of sick leave credit application must be made at the time of retirement, and is irrevocable. In the absence of a selection by the employee, the basic method shall be applied.

(l) The Home Care Advocacy Program (HCAP), will continue to provide services in the home for medically necessary private duty nursing, home infusion therapy and durable medical equipment under the participating provider component of the Empire Plan.

Effective April 1, 2010 language under the Home Care Advocacy Program for the purchase of Durable Medical Equipment will be modified as follow:

- Benefits are available for the most cost-effective equipment as meets the patient's functional need.
- Benefits are provided for a single unit of equipment and repair or replacement as necessary.

The Home Care Advocacy Program (HCAP) non-network benefit for individuals who fail to have medically necessary designated HCAP services and supplies pre-certified by calling HCAP and/or individuals who use a non-network provider will be subject to the following provisions:

- Where nursing services are rendered, the first 48 hours of nursing care will not be a covered expense;
- Services (including nursing services), equipment and supplies will be subject to the annual basic medical deductible and reimbursed at 50 percent of the HCAP network allowances; the basic medical out-of-pocket maximum will not apply to HCAP designated services, equipment and supplies.

(m) All professional component charges associated with ancillary services billed by the outpatient department of a hospital for emergency care for an accident or for sudden onset of an illness (medical emergency) will be a covered expense under the participating provider or the basic medical component of the Empire Plan not subject to deductible or coinsurance, when such services are not otherwise included in the hospital facility charge covered by the hospital carrier.

(n) Employees and their covered spouses 40 years of age and older shall be allowed reimbursement of up to 100% of the reasonable and customary charge annually towards the cost of a routine physical examination. These benefits shall not be subject to a deductible or coinsurance.

(o) Services for examinations and/or purchase of hearing aids shall be a covered basic medical benefit not subject to deductible or coinsurance. The hearing aid reimbursement is \$1,500, per hearing aid, per ear, once every four years, not subject to deductible or coinsurance. For children 12 and under the same benefits can be available after 24 months, when it is demonstrated that a covered child's hearing has changed significantly and the existing hearing aid(s) can no longer compensate for the child's hearing impairment. Coincident with the implementation of the hearing aid allowance, if a significant change in hearing occurs and the existing hearing aid(s) can no longer compensate for the hearing impairment, eligible enrollees over the age of 12 may be eligible to receive the benefit prior to 4 years.

(p) The Empire Plan participating provider and basic medical coverage for the treatment of infertility will be modified as follows:

- access to designated "Centers of Excellence" including a travel benefit;

- treatment of “couples” as long as both partners are covered either as enrollee or dependent under the Empire Plan;
- The lifetime coverage limit per individual is \$50,000;
- prior authorization required for certain procedures.

(q) The medical component of the Empire Plan shall include a voluntary nurse-line feature to provide both clinical and benefit information through a toll-free phone number.

(r) (1) Mastectomy Brassieres prescribed by a physician, including replacements when it is functionally necessary to do so, shall be a covered benefit under the basic medical component of the Empire Plan.

(2) External mastectomy prostheses is a covered in full benefit, not subject to deductible or coinsurance. Coverage is provided by the medical carrier as follows:

- Benefits are available for one single/double mastectomy prosthesis in a calendar year.
- Pre-certification through the Home Care Advocacy Program is required for any single external prosthesis costing \$1,000 or more. If a less expensive prosthesis can meet the individual's functional needs, benefits will be available for the most cost-effective alternative.

(s) The cost of certain injectable adult immunizations shall be a covered expense, subject to copayments, under the participating provider portion of the Empire Plan. Effective October 1, 2011, no copayment shall be required (Herpes Zoster for patients under age 60 will be subject to copayment). The list of immunizations shall include Influenza, Pneumococcal Pneumonia, Measles, Mumps, Rubella, Varicella,

Herpes Zoster, Human Papilloma Virus (HPV), Meningococcal Meningitis and Tetanus, and shall be subject to protocols developed by the medical program insurer.

(t) A Medical Flexible Spending Account (MFSA) shall be available to eligible employees. Eligible expenses under the Medical Flexible Spending Account include over-the-counter medications according to guidelines developed by the Medical Flexible Spending Account Administrator.

(u) The Empire Plan hospital program will include a voluntary “Centers of Excellence” program for organ and tissue transplants. The Centers will be required to provide pre-transplant evaluation, hospital and physician service (inpatient and outpatient), transplant procedures, follow-up care for transplant related services and any other services as identified during implementation as part of an all-inclusive global rate. A travel allowance for transportation and lodging will be included as part of the Centers of Excellence program.

(v) The Empire Plan Centers of Excellence Programs includes Cancer Resource Services. The Cancer Resource Program will provide:

- Direct telephonic nurse consultations;
- Information and assistance in locating appropriate care centers;
- Connection with cancer experts at Cancer Resource Services network facilities;
- There is no lifetime maximum for travel and lodging expenses; and
- Paid-in-full reimbursement for all services provided at a Cancer Resource Services network facility when the care is pre-certified.

(w) The Empire Plan medical carrier will make available a network of prosthetic and orthotic providers established by the Empire Plan medical carrier. Prostheses or

orthotics obtained through an approved prosthetic/orthotic network provider will be paid in full under the participating provider component of the Empire Plan, not subject to copayment. For prostheses or orthotics obtained other than through an approved prosthetic/orthotic network provider, reimbursement will be made under the basic medical component of the Empire Plan, subject to deductible and coinsurance.

If more than one prosthetic or orthotic device can meet the individual's functional needs, benefits will be available for the most cost-effective piece of equipment. Benefits are provided for a single-unit prosthetic or orthotic device except when appropriate repair and/or replacement of devices are needed.

(x) A Basic Medical Provider Discount Program is available through the basic medical component of the Empire Plan.

- Empire Plan enrollees will have access to an expanded network of providers through an additional provider network;
- Basic Medical provisions will apply to the providers in the expanded network option (deductible and 20 percent coinsurance);
- Payment will be made by the Plan directly to the discount providers, no balance billing of discounted rate will be permitted;
- This program is offered as a pilot program and will terminate on December 31, 2012, unless extended by agreement of both parties;

(y) The Empire Plan medical component shall include a voluntary disease management program.

(z) Effective January 1, 2010, an annual diabetic shoe benefit will be available through the Home Care Advocacy Program under the medical carrier.

Network Coverage: Benefits paid at 100% with no out-of-pocket cost up to a \$500 annual maximum.

Non-network Coverage: For diabetic shoes obtained other than through the Home Care Advocacy Program, reimbursement will be made under the basic medical component of the Empire Plan, subject to deductible and the remainder paid at 75% of the network allowance up to a maximum annual allowance of \$500.

(aa) Effective January 1, 2010 prosthetic wigs shall be a covered basic medical benefit and shall be reimbursed up to a lifetime maximum of \$1500 not subject to deductible or coinsurance.

(bb) Effective April 1, 2010 the Empire Plan medical carrier shall contract with Diabetes Education Centers accredited by the American Diabetes Education Recognition Program.

(cc) The State and the NYSCOPBA Joint Committee on Health Benefits will explore the possible implementation of additional Disease Management and/or Wellness activities to support enrollees with chronic illnesses and employees seeking to improve their general health and well-being.

- Effective January 1, 2010 a disease management program for chronic kidney disease will be implemented under the Empire Plan Medical Component.

(dd) Effective April 1, 2010 the travel allowance for the Centers of Excellence Programs shall be modified to reimburse meals and lodging at the Federal Government rate.

12.7 Prescription Drug Services

12.7(a) The Prescription Drug Program will cover medically necessary drugs requiring a physician's prescription and dispensed by a licensed pharmacist. Coverage will be provided under the Empire Plan Prescription Drug Program for prescription vitamins and contraceptives.

12.7(a)(1) The Prescription Drug Program will continue to utilize a preferred provider community pharmacy network.

12.7(b) Mandatory generic substitution will be required for all brand-name multi-source prescription drugs (a brand-name drug with a generic equivalent) covered by the Prescription Drug Program.

- On a case-by-case basis, when a physician provides sufficient medical justification of the need for a brand-name drug where a generic equivalent is available, the Program administrator will review the physician's request and rule on the appropriateness of a waiver of the mandatory generic substitution.

12.7(b)(1) A third level of prescription drugs and prescription copayments was created to differentiate between preferred brand-name and non-preferred brand-name drugs. The copayment for prescription drugs purchased at a retail pharmacy or the mail service pharmacy for up to a 30-day supply is as follows:

- \$5 Generic
- \$15 Preferred-Brand
- \$30 Non-Preferred Brand Effective April 10, 2010 the non-preferred brand name copayment shall be \$40

Effective October 1, 2012, the copayment for prescription drugs purchased at a retail or mail service pharmacy for up to a 30-day supply shall be as follows:

- \$5 Level One (Generic)
- \$25 Level Two (Preferred-Brand)
- \$45 Level Three (Non-Preferred Brand)

When a brand-name prescription drug is dispensed and an FDA-approved generic equivalent is available, the member will be responsible for the difference in cost between the generic drug and the non-preferred brand-name drug, plus the non-preferred brand-name copayment; not to exceed the cost of the drug.

12.7(b)(2) The copayment for prescription drugs purchased at a retail pharmacy for a 31-90 day supply shall be as follows:

- \$10 Generic
- \$30 Preferred Brand
- \$60 Non-Preferred Brand Effective April 10, 2010 the non-preferred brand name copayment shall be \$70

Effective October 1, 2012, the copayment for prescription drugs purchased at a retail pharmacy for a 31-90 day supply shall be as follows:

- \$10 Level One (Generic)
- \$50 Level Two (Preferred-Brand)
- \$90 Level Three (Non-preferred Brand)

When a brand-name prescription drug is dispensed and an FDA-approved generic equivalent is available, the member will be responsible for the

difference in cost between the generic drug and the non-preferred brand-name drug, plus the non-preferred brand-name copayment; not to exceed the cost of the drug.

12.7(b)(3) The copayment for prescription drugs purchased through the mail service pharmacy for a 31-90 day supply will be as follows:

- \$5 Generic
- \$20 Preferred Brand
- \$55 Non-Preferred Brand Effective April 10, 2010 the non-preferred brand name copayment shall be \$65.

Effective October 1, 2012, the copayment for prescription drugs purchased at the mail service pharmacy for a 31-90 day supply shall be as follows:

- \$5 Level One (Generic)
- \$50 Level Two (Preferred-Brand)
- \$90 Level Three (Non-preferred Brand)

When a brand-name prescription drug is dispensed and an FDA-approved generic equivalent is available, the member will be responsible for the difference in cost between the generic drug and the non-preferred brand-name drug, plus the non-preferred brand-name copayment; not to exceed the cost of the drug.

12.7(c) Effective April 1, 2010 Level One, currently reserved for Generic Drugs only, may include brand name medications that are determined by the Prescription Drug Insurer/Administrator to be a "best value." Generic drugs, that are determined not to add value to the Plan or the enrollee, may be placed in Level 2 or Level 3. The

copayment for any brand name drug placed in Level 1 will be the same as the Level One copayment, similarly, any generic drug placed in Levels 2 or 3 will have the same copayment as brand name drugs in that level.

12.7(d) Effective January 1, 2013 initial prescriptions for all “new to you” drugs dispensed at retail and/or mail will be limited to a 30 day supply. After two 30 day prescriptions have been filled, the 31 to 90 days supply option will be available.

12.7(e) Specialty Medication Component: Effective April 1, 2010, the Empire Plan Specialty Drug Program will be implemented. The Program will consist of a network of one or more Specialty Pharmacies.

1. For purposes of this Program, Specialty Drugs that are eligible for inclusion are defined as:

“orphan drugs”;

drugs requiring special handling, special administration and/or intensive patient monitoring/testing;

biotech drugs developed from human cell proteins and DNA, targeted to treat disease at the cellular level; or,

other drugs identified by the Program as used to treat patients with chronic or life threatening diseases.

2. Enrollees currently using, and physicians currently prescribing drugs that will be included in the Specialty Program will be notified in writing at least 30 days in advance of the implementation date.

3. Following implementation, enrollees may fill no less than one prescription for a drug included in the Specialty Program at a Non-Specialty Network pharmacy, except for

those drugs identified as being used for short-term therapy for which a delay in starting therapy would not affect clinical outcome.

4. Enrollees initially filling a prescription for a Specialty Drug at a Non-Specialty Network pharmacy will be contacted by the Program and advised that they must obtain all refills after the allowed fill(s) through the Specialty Drug Program. Thereafter, any additional claims for the same drug will be blocked at Non-Specialty Network pharmacies.

5. Beyond the initial fill(s) described in (3) above, enrollees must contact the Specialty Referral Line, accessible through the NYSHIP toll-free telephone line, prior to obtaining a drug included in the Specialty Program, in order to receive the maximum available benefit. Enrollee calls will be transferred directly to the participating specialty pharmacy that has agreed to provide the drug in question.

6. Once an enrollee contacts the Specialty Referral Line, subsequent fills and refills for the same drug should be requested directly from the Specialty Pharmacy.

7. Any and all prescription(s), initial or refill, beyond those provided for in paragraph (b), for designated Specialty Drugs will be limited to a 30-day supply, unless otherwise agreed to by the State and the Program administrator.

8. All Specialty Pharmacies that are participating in the Specialty Drug Program will provide enrollees with 24/7/365 access to a pharmacist.

9. Drugs meeting the above definition of a "Specialty Drug" will be excluded from coverage under the "standard" Empire Plan Prescription Drug benefit and will be provided through the Empire Plan Specialty Drug Program.

10. Drugs meeting the above definition of a “Specialty Drug” that are not included in the Empire Plan Specialty Drug benefit will continue to be covered under the “standard” Empire Plan Prescription Drug Program.

11. Drugs included in the Specialty Drug Program will be assigned to tiers and subject to the same copayments as drugs covered under the “standard” Empire Plan Prescription Drug benefit.

12. Other than the accommodation described in (3) above, drugs included in the Specialty Program that are purchased without contacting the Specialty Referral Line will be treated as a subscriber submitted claims and will be reimbursed in the same manner as subscriber submitted claims under the Empire Plan Prescription Drug Program: the enrollee will be reimbursed the lesser of the pharmacy charge or the amount the Program would have paid through the Specialty Drug Program less the appropriate copayment.

12.8 Premium Contribution

12.8(a) The State agrees to pay 90 percent of the cost of individual coverage and 75 percent of the cost of dependent coverage, provided under the Empire Plan. The State shall pay 90 percent for individual prescription drug coverage and 75 percent for dependent prescription drug coverage under the Empire Plan. Effective October 1, 2011, for employees in a title Salary Grade 9 or below (or an employee equated to a position Salary Grade 9 or below), the State agrees to pay 88 percent of the cost of individual coverage and 73 percent of the cost of dependent coverage. Effective October 1, 2011, for employees in a title Salary Grade 10 and above (or an employee

equated to a position title Salary Grade 10 and above) the State agrees to pay 84 percent of the cost of individual coverage and 69 percent of the cost of dependent coverage.

12.8(b) The State agrees to pay 90 percent of the cost of individual coverage and 75 percent of the cost of dependent coverage, toward the hospital/medical/mental health and substance abuse components of each HMO, not to exceed, 100 percent of its dollar contribution for those components under the Empire Plan. The State will pay 90 percent of the cost of individual prescription drug coverage and 75 percent of the cost of dependent prescription drug coverage under the Health Maintenance Organizations. Effective October 1, 2011, for employees in a title Salary Grade 9 or below (or an employee equated to a position title Salary Grade 9 or below), the State agrees to pay 88 percent of the cost of individual coverage and 73 percent of the cost of dependent coverage toward the hospital/medical/mental health and substance abuse component of each HMO, not to exceed 100 percent of its dollar contribution for those components under the Empire Plan, and the State agrees to pay 88 percent of the cost of individual prescription drug coverage and 73 percent of dependent prescription drug coverage under each participating HMO. Effective October 1, 2011, for employees in a title Salary Grade 10 and above (or an employee equated to a position title Salary Grade 10 and above) the State agrees to pay 84 percent of the cost of individual coverage and 69 percent of the cost of dependent coverage toward the hospital/medical/mental health and substance abuse component of each HMO, not to exceed 100 percent of its dollar contribution for those components under the Empire Plan, and the State agrees to pay 84 percent of the cost of individual prescription drug

coverage and 69 percent of the cost of dependent prescription drug coverage under each participating HMO.

12.8 (b)(1) Effective October 1, 2012, NYSHIP enrollees who can demonstrate and attest to having other, non-State sponsored coverage may annually opt-out of NYSHIP's Empire Plan or Health Maintenance Organizations. Enrollees who choose to opt-out of NYSHIP coverage will receive an annual payment of \$1,000 for opting out of individual coverage or \$3,000 for opting out of family coverage. The opt-out program will allow for re-entry to NYSHIP during the calendar year subject to a Federally Qualifying Event and during the annual option transfer period. The enrollee must be enrolled in NYSHIP prior to April 1st of the previous plan year in order to be eligible to opt out, unless newly eligible to enroll. The opt-out payment will be pro-rated over the twenty-six (26) payroll cycles and appear as a credit to the employee's wages for each bi-weekly payroll period the eligible individual is qualified. For the 2012 plan year NYSCOPBA members will be permitted to opt out of coverage under the State health plans subsequent to ratification, and will be entitled to a pro-rata share of the annual payment for the remaining portion of the program year.

12.8(c) The unremarried spouse of an employee, who retires after April 1, 1979, with ten or more years of active State service and subsequently dies, shall be permitted to continue coverage in the health insurance program with payment at the same contribution rates as required of active employees.

12.8(d) The unremarried spouse of an active employee, who dies after April 1, 1979 and who, at the date of death was vested in the Employee's Retirement System and vested for the purpose of health insurance, and within ten years of his/her first date

of eligibility for retirement shall be permitted to continue coverage in the health insurance program with payment at the same contribution rates as required of active employees.

12.9 Option Transfer

12.9(a) Eligible employees in the State Health Insurance Plan may elect to participate in a federally qualified or State certified Health Maintenance Organization (HMO) which has been approved to participate in the State Health Insurance Program by the Joint Committee on Health and Dental Benefits. Employees may change their health insurance option each year throughout the month of November unless another period is mutually agreed upon by the State and the Joint Committee on Health and Dental Benefits.

(a)(1) If the rate renewals are not available by the time of the option transfer period, then the option transfer period shall be extended to assure ample time for employees to transfer.

12.10 Joint Committees on Health and Dental Benefits

(a) The State and NYSCOPBA agree to continue the Joint Committee on Health and Dental Benefits. The Committee shall consist of at least three representatives selected by NYSCOPBA and three representatives selected by the State.

(b) The State shall seek the appropriation of funds by the Legislature to support committee initiatives and to carry out the administrative responsibilities of the Joint Committee. Funding for the Joint Committee shall be as follows: \$165,000 for the

period April 1, 2012 to March 31, 2013; \$165,000 for the period April 1, 2013 to March 31, 2014; \$168,300 for the period April 1, 2014 to March 31, 2015; and, \$171,666 for the period April 1, 2015 to March 31, 2016. In no case will more than 50% of these appropriations be allocated to either the State or NYSCOPBA individually.

(c) The Joint Committee on Health and Dental Benefits shall meet within 14 days after a request to meet has been made by either side.

(d) The Joint Committee shall work with appropriate State agencies to review and oversee the various health plans available to employees represented by NYSCOPBA.

(e) The Joint Committee on Health and Dental Benefits shall work with appropriate State agencies to monitor future employer and employee health plan cost adjustments.

(f) The Joint Committee shall be provided with each carrier rate renewal request upon submission and be briefed in detail periodically on the status of the development of each rate renewal.

(g) The State shall require that the insurance carriers for the State Health Insurance Plan submit claims and experience data reports directly to the Joint Committee on Health and Dental Benefits in the format and with such frequency as the Committee shall determine.

(h) The Joint Committee on Health and Dental Benefits shall work with appropriate State agencies to make mutually agreed upon changes in the Plan benefit structure through such initiatives as: (1) HMO Workgroup (participation/efficiency); (2) Ambulatory Surgery Center development; (3) HCAP/ER benefit-review; (4) The ongoing review of the Managed Physical Medicine Program; (5) Review of the appropriateness

of providing a benefit for autologous blood donations; (6) Review the appropriateness of additional chronic copayment waivers; (7) Work with the dental carrier to increase access to participating dental specialists such as orthodontists; (8) Explore the addition of a Lyme Vaccine to the list of injectable adult immunizations should one become available (9) Work with the State to monitor and oversee a voluntary disease management program under the medical component of the Empire Plan; (10) The ongoing review of a Medical Flexible Spending Account; (11) Work with the State to monitor and oversee the voluntary “Centers of Excellence” program for organ and tissue transplants within the hospital component of the Empire Plan; (12) work with the State and medical carrier to develop an enhanced network of urgent care facilities; (13) work with the State to implement a direct debit vehicle to be utilized under the Medical Flexible Spending Account; (14) Work with the State to implement and oversee a Bariatric Surgery Program; (15) Work with the State to implement and oversee a Healthy Back Disease Management Program.

12.11 Vision Care Benefits

The State shall continue to provide for and pay the full cost for the vision care plan in effect as of March 31, 2009.

(a) The plan shall provide a \$200 allowance for the cost of eye examination and contact lenses.

(b) The Plan shall provide the complete selection of frames available to other participants in the Plan including the frame selections designated as standard, supplemental and designer/metal.

(c) The State shall provide toll-free telephone service for insurance information and assistance to employees and dependents on vision care insurance matters.

(d) Dependents under 19 years of age will be eligible to receive vision care benefits every 12 months.

(e) Covered Plan eye glasses (frames and lenses) and/or contact lenses may be obtained within (90) ninety days after a vision examination by a participating Vision Care Plan Provider.

(f) If new lenses are required due to vision changes resulting from a medical condition for which the individual is under the care of a physician, vision care benefits, including an examination, new lenses and, if appropriate, new frames, shall be available sooner than once every two years, but not sooner than one year from the last use of vision care benefits, upon written documentation by an ophthalmologist that the medical condition has caused a vision loss that requires a new prescription. Documentation of the vision loss must be provided in writing by the ophthalmologist each time a new prescription is needed sooner than the standard two-year interval.

(g) Covered plan lenses shall include photosensitive lenses (plastic or glass), no-line bifocals, ultra thin lenses, and scratch resistant coating

(h) Access to a network of providers to obtain Laser Vision Correction services at discounted employee -pay-all fees is provided.

(i) Effective September 1, 2010, the NYSCOPBA Vision Care Plan will be modified as follows:

1. Lasik and other corrective vision care procedures performed to correct nearsightedness and/or farsightedness and not covered by the Empire Plan or an HMO shall be a covered service for employees only.
2. Spouses/Domestic Partners and dependent children shall be eligible to participate in a “discount program” providing up to a 25 percent savings for the procedures identified in item #1 but will be responsible for any and all costs associated with such procedures.
3. Corrective Vision Care coverage shall only be available through a network of participating board eligible/board certified ophthalmologists trained in this field. The Vision Care Plan administrator shall be responsible for the network and will make every effort to recruit and retain providers throughout New York State.
4. Corrective Vision Care coverage shall include a preliminary exam, the actual procedure and up to two follow-up visits.
5. Employees receiving such services shall have a copayment equal to 10% of the discounted cost of the procedure up to an out-of-pocket maximum of \$200.
6. Employees shall be eligible for one Corrective Vision Care procedure every 5 years per eye.
7. The NYSCOPBA Joint Committee on Health Benefits shall review the Corrective Vision Care coverage component at regular intervals to monitor utilization, network adequacy and cost.
8. The five (5) year limit may be waived based on evidence of a significant vision change due to injury or illness.

12.12 Dental Care Benefits

The State shall continue to provide dental benefits at the same level as were in effect March 31, 2009, except as modified as follows:

(a) The allowances paid shall be at a level sufficient to retain or add participating dentists and specialists. The State shall continue to pay the full premium of the dental insurance plan.

(b) The Plan shall include coverage for the application of sealants to the primary teeth of dependent children age 13 and under.

(c) The nonparticipating provider reimbursement will be increased to an amount equal to 100 percent of the schedule for basic and prosthetic services.

(d) The maximum annual benefit for covered participating and nonparticipating services is \$2300 per person.

(e) The maximum lifetime benefit for orthodontic treatment is \$2300.

(f) Anesthesia administered in a dentist office shall be a covered benefit under the participating and nonparticipating components of the dental plan.

12.13 At the demand of the Joint Committee on Health and Dental Benefits the State shall request proposals from existing or other carriers, or alternative third party administrators, for the Empire Plan, Dental, Drug and Vision Plans providing the benefits are identical. A replacement insurance carrier or third party administrator will not be selected without Joint Committee consent.

12.14 Mental Health and Substance Abuse Treatment

The Empire Plan shall continue to provide comprehensive coverage for medically necessary mental health and substance abuse treatment services through a managed care network of preferred mental health and substance abuse care providers. In addition to the network care, limited non-network care will be available. Benefits shall be as follows:

12.14(a) NETWORK BENEFIT

- Mental Health Coverage

- Paid-in-full medically necessary hospital services and inpatient physician charges when provided by, or arranged through, the network;
- Effective April 1, 2010, outpatient care provided by, or arranged through, the network will be covered subject to a \$20 per visit copayment.
- Up to three visits for crisis intervention provided by, or arranged through, the network will be covered without copay.

- Alcohol and Other Substance Abuse Coverage

- Paid in full medically necessary care for hospitalization or alcohol/substance abuse facilities when provided by, or arranged through, the network;
- Outpatient care provided by, or arranged through, the network will be subject to the participating provider office visit copayment.

- Benefit Maximums

- Effective January 1, 2010 medically necessary inpatient alcohol and substance abuse treatment will be unlimited.

12.14(b) NON-NETWORK BENEFIT

- Mental Health

Medically necessary care rendered outside of the network will be subject to the following provisions:

- Coincident with the increase in the Basic Medical deductible and coinsurance, the mental health basic medical deductible and coinsurance will increase accordingly.
- The methodology for calculating non-network inpatient and outpatient reimbursement will be the same as the methodology for non-network hospital and medical services;

- Substance Abuse

- Medically necessary inpatient alcohol and substance abuse treatment will be unlimited effective January 1, 2010.
- Coincident with the increase in the Basic Medical deductible and coinsurance, the substance abuse deductible and coinsurance will increase accordingly effective January 1, 2010.
- Effective January 1, 2010 the methodology for calculating non-network inpatient and outpatient reimbursement will be the same as the methodology for non-network hospital and medical services;
- Expenses applied against the deductible and coinsurance levels indicated above will not apply against any deductible or coinsurance maximums under the basic medical portion of the Plan. Effective January 1, 2012, covered expenses for

non-network mental health and substance abuse treatment will be included in the combined deductible and combined coinsurance maximum.

- Disease Management

- Under the Mental Health and Substance Abuse Program a disease management program for depression is available. Effective, March 31, 2010, or as soon as practicable, disease management programs for eating disorders, including appropriate nutritional services; and ADHD will be implemented.

12.15 Managed Physical Medicine Program (MPMP)

The Empire Plan's medical care component will offer a comprehensive managed care network benefit for the provision of medically necessary physical medicine services, including physical therapy and chiropractic treatments as follows:

- Authorized network care will be available, subject only to the Plan's participating provider office visit copayments.
- Unauthorized medically necessary care, at enrollee choice, will also be available, subject to a \$250 annual deductible per enrollee, \$250 per spouse and \$250 deductible for one or all dependent children and a maximum payment of 50 percent of the network allowance for the service provided.
- Maximum benefits for non-network care will be limited to \$1,500 in payments per person per calendar year. Deductible/coinsurance payments will not be applicable to the Plan's annual basic medical deductible/coinsurance maximums.

ARTICLE 13

Education and Training

13.1 Effective April 1, 2012, the Employer will recommend an appropriation by the Legislature of \$158,500 for that year and each successive of this Agreement as set forth in Article 1 for implementation of education and training programs for employees of this Unit. Effective April 1, 2014 this amount will be increased to \$161,670 and effective April 1, 2015 the amount shall be increased to \$164,903*

13.2 A joint labor/management committee comprised of representatives of the Union and the Employer shall be established to consider bilaterally the development and expansion of such employee training programs. The committee shall consider the needs and desires of agency administration and of employees in this Unit with respect to the most efficient use of these funds, and shall make recommendations as to the training opportunities to be made available.

13.3 Following completion of initial academy training, each Correction Officer assigned to a facility after the effective date of this Agreement, shall be given a rotational job training and job orientation program of not more than six months duration during which he shall not be eligible to bid for job assignments or shifts. Correction Officer trainees will receive a \$200 lump sum payment upon satisfactory completion of the first six weeks of the Correction Officer traineeship.

13.4 In order to provide for proper training or orientation, any new employee or any employee who transfers to a new facility, is promoted, demoted, or assumes a new assignment as the result of successfully bidding pursuant to the provisions of Article 24 of this Agreement, shall not be eligible to bid for job assignments or shifts during the 60-

day period immediately following the assumption of new duties resulting from any such transfer, promotion, demotion, or successful bid.

13.5 (a) Effective April 1, 2012 the Employer will appropriate funds of \$200,000 for each year of this Agreement, as set forth in Article 1, to provide an Employee Assistance Program for employees in this Unit. Effective April 1, 2014 that amount shall be increased to \$204,000; Effective April 1, 2015 that amount shall be increased to \$208,080.

(b) Effective April 1, 2012 the Employer will appropriate funds of \$156,000 for each year of this Agreement, as set forth in Article 1, to provide an Organizational Alcoholism Program for employees in this Unit. Effective April 1, 2014 that amount shall be increased to \$159,120; Effective April 1, 2015 that amount shall be increased to \$162,302.

13.6 Effective April 1, 2012 the Employer will appropriate funds of \$100,000 for each year of this Agreement, as set forth in Article 1, to enhance labor/management training efforts for employees in this Unit. Effective April 1, 2014 that amount shall be increased to \$102,000; Effective April 1, 2015 that amount shall be increased to \$104,040.

13.7 Funding will be provided from Article 13 and Article 25 sources in each year of this Agreement to support the Blood Exposure Response Team (BERT), a voluntary organization which provides services to Unit members who have been exposed to blood or other body fluids in the course of their employment.

ARTICLE 14

Attendance and Leave

14.1 Vacation Credits

(a) Pursuant to the Attendance Rules, employees entitled to earn and accumulate vacation credits presently earn and accumulate vacation at the rate of (a) 20 days annually or (b) one-half day per biweekly pay period plus additional vacation in accordance with the following schedule:

Completed Years of Continuous Service	Additional Vacation Credits
1	1 day
2	2 days
3	3 days
4	4 days
5.....	5 days
6	6 days
7	7 days

(b) In addition to vacation credits to which employees are entitled under paragraph 14.1(a) above, additional vacation credits for completed years of continuous service shall be credited to each eligible employee annually on his service anniversary date as follows:

Completed Years of Continuous Service	Additional Vacation Credits	Total Earned Annual Credits
20 to 24	1 day	21 days
25 to 29	2 days	22 days
30 to 34	3 days	23 days
35 or more	4 days	24 days

(c) Continuous State service for the purpose of paragraphs 1(a) and 1(b) of this Article shall mean uninterrupted State service, in pay status, as an employee. A leave of absence without pay, or a resignation followed by reinstatement or reemployment in State service within one year following such resignation, shall not constitute an interruption of continuous State service for the purposes of this Article, provided, however, that leave without pay for more than six months or a period of more than six months between resignation and reinstatement or reappointment, during which the employee is not in State service, shall not be counted in determining eligibility for additional vacation credits under this Article.

(d) Seniority as defined in Article 24 shall be the basis by which employees select vacations. Requests for vacation time off shall be approved by the Employer to the extent practicable in light of the manpower needs of the department or facility and shall not be unreasonably denied. The appropriate operating units may establish an annual date or dates or period or periods by which or within which an employee must request a block of time off in order to have his seniority considered. However, nothing in this paragraph shall serve to bar mutually agreed to local arrangements regarding the method by which vacations are to be selected or scheduled.

(e) Vacation credits may be accumulated up to a maximum of 40 days provided, however, that in the event of death, retirement, or separation from service, employees shall be compensated in cash for accrued and unused vacation credits only up to a maximum of 30 days. An employee at the vacation accrual maximum (40 days) or who will exceed the accrual maximum at the next accrual period whose written request for the use of vacation credits is denied, in writing, may accumulate more than 40 days of

such credits during a year, provided, however, that the employee's balance of vacation credits does not exceed 40 days on October 1 of each year.

14.2 Personal Leave

(a) Employees entitled to be credited with personal leave shall be credited with personal leave not exceeding a total of five days in a year.

(b) The Employer shall not require an employee to give a reason as a condition for approving the use of personal leave credits provided, however, that prior approval for the requested leave must be obtained, that the resulting absence will not interfere with the proper conduct of governmental functions, and that an employee who has exhausted his personal leave credits shall charge approved absences from work necessitated by personal business or religious observance to accumulated vacation or other credits, excluding sick leave.

(c) Personal leave shall not be carried over from year to year.

(d) Personal leave may be used in conjunction with an employee's vacation, and shall be subject to the same conditions as govern vacation.

14.3 Bereavement Leave

(a) Employees shall be allowed to charge absences from work in the event of death or illness in the employee's immediate family against accrued sick leave credits up to a maximum of 15 days in any one calendar year.

(b) For the purpose of defining eligibility for paid leave because of illness or death in the family, the term "family" shall be defined as the employee's spouse, child, parent, grandparent, brother, sister, aunt, uncle, parent-in-law, brother-in-law, sister-in-

law, grandchild, step-sibling, step-parent, step-child or any person living in the employee's household.

(c) Requests for bereavement leave shall be subject to approval of the appointing authority; such approval shall not be unreasonably denied.

14.4 Sick Leave Accumulation

Employees who are entitled to accumulate sick leave credits may accumulate such long-term credits up to a total of 225 days provided, however, no more than 200 days of such credits may be used for retirement service credits or to pay for health insurance in retirement.

Effective October 1, 2006 for all interest arbitration eligible employees, and October 1, 2007 for all others, employees shall be required consistent with current medical documentation policy, to provide adequate documentation from the medical provider for all pre-approved medical absences including those of four hours or less. Upon the second instance of failure to provide adequate documentation, the employee shall be subject to discipline. However, this in no way is intended to otherwise alter present medical documentation requirements.

Effective October 1, 2006 for all interest arbitration eligible employees, and October 1, 2007 for all others, for all sick leave absences of a full shift or more, returning employees shall provide at least eight hours advance notice of their intended return to work. However, this in no way is intended to otherwise alter present notification procedures.

14.5 Leave--Probationary Employees

Every permanent employee holding a position in the competitive class and appointed to a State position from an open competitive eligible list shall be granted a leave of absence from his position for the duration of his probationary term.

14.6 Alternate Examination Dates

In the event an employee in this unit is unable to participate in an examination because of the death within seven days immediately preceding the scheduled date of an examination, of an employee's grandparent, parent, spouse, brother, sister, child, or a relative living in the employee's household, such employee shall be given an opportunity to take such examination at a later date, but in no event shall such examination be scheduled sooner than two days following the date of burial. The Department of Civil Service shall prescribe appropriate procedures for reporting the death and applying for the examination. Appropriate arrangements shall be made in circumstances where there is a protracted period between the death and the burial.

14.7 Absence--Extraordinary Circumstances

An employee who has reported for duty and because of extraordinary circumstances beyond his control other than those related to weather conditions, is directed to leave work, shall not be required to charge such directed absence during such day against leave credits.

14.8 Jury Duty

(a) Except as provided in section 14.8(b), when an employee submits proof of the necessity of jury service or appearance as a witness pursuant to subpoena or other order of a court or body, an employee shall be granted a leave of absence with pay with

no charge against leave credits. This section shall not apply to any absence of an employee occasioned by an appearance in an action to which such employee is a party unless the action brought against the employee is job related.

(b) An employee holding a position designated as overtime ineligible may be granted a leave of absence with pay with no charge against leave credits on proof of necessity of jury service or appearance as a witness pursuant to subpoena or other order of a court or body for any period of less than a workweek regardless of whether such employee is a party to the action. This section will be rendered void if the Fair Labor Standards Act (FLSA) is modified to allow overtime ineligible employees to maintain such status and receive the benefit in section (a) above.

14.9 Workers' Compensation Leave

The Medical Evaluation Program (MEP) for workers' compensation will be continued. Employees opting into the MEP will receive the benefits provided herein. Those employees opting not to participate in the MEP will be eligible to apply for the statutory workers' compensation benefits. A light duty component shall be part of the MEP.

(a) An employee necessarily absent from duty because of occupational injury or disease as defined in the Workers' Compensation Law who is allowed leave from his position for the period of his absence necessitated by such injury or disease shall be:

- (1) first granted compensation leave with pay without charge to leave credits not exceeding cumulatively six months; and
- (2) upon exhausting leave pay benefits under (1) above be allowed to draw accrued leave credits; and
- (3) upon exhausting leave with full pay benefits under (1) and (2) above be allowed sick leave at half pay for which he

may be eligible during such leave unless: (i) there is good and sufficient reason to believe that the disability resulting from such injury or disease is not job related or is primarily due to some pre-existing medical condition; (ii) there is good and sufficient reason to believe that the employee could report for work on a full-time or part-time basis; (iii) the employee's services would have been terminated or would have ceased under law; or (iv) the employee's claim for benefit is controverted by the State Insurance Fund.

(b) An employee allowed leave with pay under paragraph 14.9(a) may elect to draw accrued leave credits for part or all of his absence from duty before being granted leave with pay under paragraph 14.9(a)(1) above.

(c) If it is subsequently determined that an employee was not entitled to compensation leave with pay without charge to leave credits for any period for which he was granted such leave as provided herein above, he shall be required to make reimbursement for such paid leave from current or subsequent accumulations of leave credits at a rate and in a manner determined by the appointing authority.

(d) An employee who draws leave credits as provided in paragraph 14.9(a) shall be entitled to restoration of such credits, including those used for absences of less than a full day, as are used during a period of absence for which an award of compensation has been made and credited to the State as reimbursement of wages paid. An employee who is necessarily absent from duty as described herein above may be granted compensation leave with pay without charge against leave credits for absences of less than a full day where such employee returns to work on a part-time basis.

(e) The Employer agrees that an employee eligible for Workers' Compensation Leave because of occupational injury or disease as defined in the Workers' Compensation Law, when absent from work for the purpose of attending a hearing scheduled by the Workers' Compensation Board in connection with such injury or disease shall be granted compensation leave with pay without charge to leave credits for such absence provided, however, that the cumulative total of compensation leave with pay not charged to leave credits granted for attendance at Workers' Compensation Board hearings or for absences necessitated by the occupational injury or disease shall not exceed six months.

(f) On the employee's prior written request at least three days in advance, the Employer will reschedule midnight or afternoon shift employees to attend a workers' compensation hearing to the normal day shift for the day of the hearing.

(g) An employee necessarily absent from duty and removed from the payroll because of occupational injury or disease as defined in the Workers' Compensation Law shall be treated as though on payroll for the period of disability not to exceed twelve months per injury for the purposes of coverage under the New York State Health Insurance Plan.

(h) The State and NYSCOPBA agree to continue the standing Joint Committee on Workers' Compensation. The Committee shall consist of an equal number of representatives selected by NYSCOPBA and an equal number of representatives selected by the State. The Committee will be responsible for the ongoing review and oversight of the MEP.

14.10 Unauthorized Absence

Any employee absent from work without authorization for ten consecutive workdays shall be deemed to have resigned from his position if he has not provided a satisfactory explanation for such absence on or before the eleventh workday following the commencement of such unauthorized absence.

14.11 Medical Verification

(a) When the State requires that an employee who has been absent due to illness or injury be medically examined by a physician chosen by the appointing authority before such employee is allowed to return to work, the appointing authority will make a reasonable effort to ensure that the examination is completed in a timely manner as provided herein.

(b) If, no more than ten working days prior to the date specified by the employee's physician as the date upon which the employee may return to work, the employee provides the appointing authority with his/her physician's statement indicating that the employee is able to return to work without restrictions and specifying the date, the appointing authority shall have a total of 20 working days from the date of such advance notice, which shall include the 10 working days following the specified return-to-work date, to complete medical examinations. For each working day of advance notice from the employee less than 10, the appointing authority shall have an additional working day beyond the return-to-work date to complete medical examinations.

(c) If, upon completion of the 20 working day period provided for in Section 14.11 (b), the appointing authority's physician(s) has not completed the examination(s) of the employee or reached a decision concerning the employee's return to work, the

employee shall be placed on leave with pay without charge to leave credits until the examination is completed, a decision made and, if approved, the employee is returned to work. The employee may not return to work, however, until the employee has been examined by the appointing authority's physician and given approval to work. The leave with pay provision of this section shall not apply where the failure of the appointing authority's physician to complete the medical examination is attributable to the employee's failure to appear for the examination or the employee's refusal to allow it to be held.

(d) If, following the employee's examination, the appointing authority's physician does not approve the employee's return to work, the employee shall be placed in the appropriate leave status in accordance with the Attendance Rules. Once a determination has been made that an employee may not return to work, further examinations pursuant to this Article shall not be required more often than once a month; provided, however, where the appointing authority's physician has specified a date for a further examination or a date when the employee may return to work, the State shall not be required to conduct an examination prior to such date. Where the appointing authority's physician has not set either a date for further examination or a date upon which the employee may return to work, the employee may submit a further statement from the employee's physician and the provisions of this Article shall again be applicable. The provisions of this section shall not be construed to limit or otherwise affect the applicability of Civil Service Law Section 73.

(e) When, in accordance with the provisions of this section, the State exercises its right to require an employee to be examined by a physician selected by the

appointing authority, the employee shall be entitled to reimbursement for actual and necessary expenses incurred as a result of travel in connection with such examination, including transportation costs, meals and lodging, in accordance with the Comptroller's rules and regulations pertaining to travel expenses.

(f) Section 14.11 shall not apply to absences or cases of work-related injuries or illnesses.

14.12 Deficit Reduction Leave

(a) Interest Arbitration ineligible employees

(1) Employees shall be eligible to take 9 days, or the amount credited to them, of deficit reduction leave from the date of ratification of the agreement with Interest Arbitration ineligible employees until March 31, 2013.

(2) The scheduling of such dates off will be subject to supervisory approval. The State will ensure that each employee is allowed to take days off in accordance with this provision.

(3) The exact cash value of the four days of deficit reduction leave from fiscal year 2012-2013 shall be repaid to employees in equal installments over 39 payroll periods beginning with the final payroll period of fiscal year 2015-2016.

(4) Effective October 1, 2012, the vacation accrual maximum in Article 14.1(e) shall be increased to 45 days. The vacation accrual maximum will return to 40 days on October 1, 2013.

(b) Interest Arbitration eligible employees

(1) Employees shall be eligible to take 9 days, or the amount credited to them, of deficit reduction leave from the date of ratification of the agreement with Interest

Arbitration eligible employees until September 30, 2014. Leave will be pro-rated for employees hired on or after March 26, 2012 based on the 4 days for fiscal year 2012-2013.

(2) The scheduling of such dates off will be subject to supervisory approval. The State will ensure that each employee is allowed to take days off in accordance with this provision. Employees may elect to use leave for all absences, including block vacations, in the same manner as vacation leave. Such leave may not be used to cover unscheduled absences such as calling in sick but may be used for pre-planned appointments with prior supervisory approval including medical appointments or pre-scheduled absences normally charged to sick leave.

(3) The exact cash value of the four days of deficit reduction leave from fiscal year 2012-2013 shall be repaid to employees in equal installments over 39 payroll periods beginning with the final payroll period of fiscal year 2015-2016.

(4) Effective October 1, 2012 and October 1 2013, the vacation accrual maximum in Article 14.1(e) shall be increased to 45 days. The vacation accrual maximum will return to 40 days on October 1, 2014.

(5) After ratification, the State will initiate a waiver period pursuant to Article 16.2 to permit employees to revoke existing waivers for fiscal year 2012-2013.

14.13 Workforce Reduction Limitation

For the Fiscal Years 2011-2012 and 2012-2013, employees shall be protected from layoffs resulting from the facts and circumstances that give rise to the present need for \$450 million in workforce savings. For the term of the agreement, only material or unanticipated changes in the State's fiscal circumstances, financial plan or revenue

will result in potential layoffs. Workforce reductions due to the closure or restructuring of facilities, as authorized by legislation or the State's Spending and Government Efficiency Commission's determinations are excluded from these limitations.

ARTICLE 15

Overtime, Recall and Scheduling

Certain terms of this Article apply only to employees who are ineligible for Interest Arbitration pursuant to Civil Service Law Section 209(4) on the date of the execution of this Agreement, indicated by (Interest Arbitration ineligible employees only).

15.1 Overtime

(a) Overtime eligible employees shall receive overtime compensation for authorized time worked beyond 40 hours in the scheduled workweek consistent with applicable law and the overtime compensation rules and regulations of the Director of the Budget.

Overtime work shall be offered to employees on the basis of seniority and shall be equitably distributed among employees who normally perform such work. Each employee shall be selected in turn according to his place on the seniority list by rotation provided, however, that the employee whose turn it is to work possesses the qualifications and ability to perform the work required.

(b) An employee requesting to be skipped when it becomes his turn to work overtime shall not be rescheduled for overtime work until his name is reached again in orderly sequence and an appropriate notation shall be made in the overtime roster.

(c) In the event no employee wishes to perform the required overtime work, the Employer shall by inverse order of this seniority list assign the necessary employees required to perform the work in question.

(d) The Union recognizes that work in progress shall be completed by the employee performing the work at the time the determination was made that overtime was necessary.

(e) An overtime roster shall be available for inspection by representatives of the Union at each institution or facility.

(f) If an employee is skipped or denied an opportunity to work overtime in violation of this Agreement, he shall be rescheduled for overtime work the next time overtime work is required, in accordance with paragraph 15.1(a) above. However, at such skipped or denied employee's option he may await the next available comparable shift and work assignment. Instances of repeated occurrences shall be brought to the attention of management at the Step 1 level of the grievance procedure.

(g) Time during which an employee is excused from work because of vacation, holidays, personal leave, sick leave at full pay, compensatory time off or other leave at full pay shall be considered as time worked for the purpose of computing overtime.

(h) Training programs conducted during other than regular working hours shall be scheduled for a minimum two-hour period.

(i) Nothing in paragraphs 15.1(a), 15.1(b), and 15.1(c) above shall prevent the establishment of mutually agreed to local arrangements regarding the method by which overtime is offered to employees.

15.2 Recall

Any employee who is recalled to work unscheduled overtime including court appearances after having completed his scheduled work period and left the facility grounds shall be guaranteed a minimum of one-half day's overtime compensation. If an employee lives on the facility grounds and is recalled from their residence to work unscheduled overtime including court appearances after having completed his/her scheduled work period, he/she shall be guaranteed a minimum of one-half day's overtime compensation. Employees called back as a result of riot, prison break, fire or escape and not put to work shall be guaranteed one-quarter day's overtime compensation.

15.3 Shift Changes

(a) No employee shall have his shift schedule changed for the purposes of avoiding the payment of overtime, unless he has been notified of such change one week in advance of the time in which the changed work period is to begin provided, however, that the circumstances necessitating such change are foreseeable prior to such one-week period.

(b) In the event that circumstances necessitating such shift changes are not foreseeable, then such notice shall be given as soon as possible.

(c) In the event such notice of shift change is not given at least 48 hours prior to the starting time of the scheduled shift which the employee is directed to work, such employee shall not be deprived of the opportunity to work his normal shift and to be paid overtime for the hours worked in excess of 40 hours in the workweek.

(d) Employees who compete in New York State Civil Service examinations and whose shift ends less than eight hours before the starting time of such an examination shall not be required to work that shift and such absence shall not be charged to accrued leave credits.

(e) Regularly scheduled days off shall not be changed for the purpose of avoiding the payment of overtime.

(f) Prior to the making of a final decision with respect to instituting a change in shift system from fixed to rotating shifts or rotating to fixed shifts the Employer shall inform the Union of such contemplated change and provide the Union with an adequate opportunity to review the impact of such change with the Employer at the appropriate level.

15.4 Overtime Meal Allowance

An overtime meal allowance of \$5.00 [effective 4/1/04, \$5.50 for Interest Arbitration ineligible employees only] shall be paid, subject to rules and regulations of the Comptroller, to employees who work at least three hours overtime on a regular

working day or at least six hours overtime on other than a regular working day. When an employee is required to work nine hours or more on other than a regularly scheduled working day, two meal allowances will be allowed.

ARTICLE 16

Holiday Pay

16.1 Option

An employee who is entitled to time off with pay on days observed as holidays by the State who is scheduled or required to work on a holiday shall receive at his option either (a) additional compensation for each holiday worked at the rate of one-tenth of his biweekly rate of compensation or (b) a compensatory day off in lieu of such holiday worked. Compensation for less than a full day of holiday work will be prorated and will include geographic, location, inconvenience and shift pay as may be appropriate to the place or hours worked.

16.2 Waiver

An employee selecting an additional day off in lieu of holiday pay shall notify the payroll agency in writing of his intention to do so with the understanding that such notice constitutes a waiver of his right under this Agreement to receive cash compensation for holidays worked. An employee may execute or revoke such a waiver annually during the period April 1 to May 15 by notifying the Employer in writing of his intention, except that employees hired after the effective date of this Agreement may also execute a waiver at the time of appointment. In the event that no revocation notice is received from an employee during an "open period," any previously executed waiver shall remain in full force and effect.

16.3 Accumulation

(a) Employees who receive compensatory time off for time worked on holidays or in lieu of holidays that fall on employees' pass days shall continue to have such earned compensatory time off added to and included in their vacation accruals and shall liquidate such time according to rules governing the use of vacation. This method, adopted in 1972, is not intended, however, to change practices concerning the use of

accrued credits. For example, at facilities using a "wheel" or "block" system, employees may use their accruals in excess of those needed for the "wheel" or "block" schedules in conjunction with their scheduled vacations or separately.

(b) The present maximum of allowable vacation accruals and amounts of vacation credits for which equivalent cash payments will be made upon separation from employment, death or retirement remains unchanged.

16.4 Holiday Observances

(a) An employee who is entitled to time off with pay on days observed as holidays by the State as an Employer shall be granted compensatory time off when any such holiday falls on a Saturday, provided, however, that employees who work on any such Saturday may receive additional compensation in lieu of such compensatory time off in accordance with Section 16.2 of this Article. The State may designate a day to be observed as a holiday in lieu of such holiday which falls on Saturday.

(b) When December 25 and January 1 fall on Sundays and are observed as State holidays on the following Mondays, employees whose work schedule includes December 25 and/or January 1 shall observe the holiday on those dates, or if required to work, may receive additional compensation or compensatory time off in accordance with Section 16.1 of this Agreement. In such event, for those employees, December 26 and January 2 will not be considered holidays.

(c) An employee who is entitled to time off with pay on days observed as holidays by the State as an Employer shall be allowed compensatory time off whenever any such day falls on the employee's pass day.

16.5 Definition

As used in this Agreement, the term holiday shall mean: New Year's Day, Martin Luther King Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veterans' Day, Thanksgiving Day, Christmas, or a day designated by the State to be observed as a

holiday in lieu of such holiday, and any other day designated as a holiday for State employees by the Governor as an Employer.

ARTICLE 17

Travel Allowances

17.1 Per Diem Meal and Lodging Expenses

The State agrees to reimburse, on a per diem basis as established by rules, bulletins, guidelines and regulations of the Comptroller, employees who are eligible for travel expenses, for their expenses incurred while in travel status in the performance of their official duties for a full day at either of the following schedules at the rates set out herein at their option:

(a) Effective on the date of execution of this Agreement:

(1) In the City of New York and the Counties of Nassau, Suffolk, Rockland and Westchester, not to exceed \$50, except as specified by the Comptroller in accordance with law.

(2) In the cities of Albany, Rochester, Buffalo, Syracuse, and Binghamton and their respective surrounding metropolitan areas, not to exceed \$40, except as specified by the Comptroller in accordance with law.

(3) In places elsewhere within the State of New York not to exceed \$35, except as specified by the Comptroller in accordance with law.

(4) In places outside the State of New York, at least \$50 per day except as specified by the Comptroller in accordance with law.

(b) Effective on the date of execution of this Agreement:

(1) Receipted lodging and meal expenses for authorized overnight travel in locations within and outside of New York State shall be reimbursed to a maximum of published per diem rates as specified by the Comptroller. Said rates shall be equal to

the combined per diem lodging and meal reimbursement rate provided by the federal government to its employees for such locations.

(2) In locations for which no specific rate is published, receipted lodging and meal expenses for authorized overnight travel within and outside of New York State shall be reimbursed to a maximum of the combined per diem lodging and meal reimbursement rate provided by the federal government to its employees for such locations.

(3) The rates in paragraphs (1) and (2) above shall be revised in accordance with any revision made in the per diem rates provided by the federal government to its employees.

(c) When the employee is in travel status for less than a full day, and incurs no lodging charges, reasonable and necessary receipted expenses will be allowed for breakfast and dinner as determined by the Comptroller in accordance with law.

(d) Employees shall be eligible for advance payments for authorized official travel for lodging and meals subject to the Comptroller's Rules and Regulations.

17.2 Mileage Allowance

The personal vehicle mileage reimbursement rate for employees in this unit shall be consistent with the maximum allowance permitted by the Internal Revenue Service. Such payments shall be paid in accordance with the Rules and Regulations of the Comptroller.

17.3 Triborough Bridge Tolls

The Employer agrees to arrange for work-related passage over the Triborough Bridge without cost for car tolls to employees employed and not residing at facilities at

Ward's Island, New York, operated by the New York State Department of Mental Hygiene for the reasons that (a) heretofore, free ferry service was provided to the Island, which service has been discontinued, and (b) there is no other way for such employees to reach their work by car except over a toll bridge.

17.4 Escort Meal Allowance

(a) The Employer will provide all employees who escort wards of the State between the hours of 11:00 a.m. and 1:00 p.m., and who are responsible for the purchasing of a noon meal for said wards, a subsidy of \$3.50 for the purpose of purchasing their own meal.

(b) All employees required to escort wards on trips and to remain with those wards while on that trip, and who are required to begin and end their workday at their official station shall be eligible for escort meal allowances while in travel status. All requirements for that reimbursement must be met except for the requirement that the employee must be over 35 miles from home in order to be eligible.

ARTICLE 18

Payroll Computation

18.1 The Employer shall calculate employees' salary payments on an appropriate ten working-day basis.

18.2 The Employer agrees that paychecks issued to employees will be delivered no later than Thursday following the end of the next succeeding payroll period.

When employees leave State service, their final salary check shall be issued at the end of the payroll period next following the payroll period in which their service is discontinued. This final salary check shall be paid at the employee's then-current salary rate.

18.3 Overtime and holiday pay authorized to be compensated for in cash shall be paid to employees by the close of the second biweekly payroll period following the payroll period during which it was earned.

ARTICLE 19

Credit Union Deductions

The Employer agrees to deduct from the salary of an employee an amount authorized in writing by the employee which shall be within the minimum and maximum amounts specified by the Comptroller and to transmit such funds to a bona fide credit union. The sums transmitted shall be used for appropriate purposes and their specific allocation shall be determined by an arrangement between the employee and his credit union. The authorization for such deductions may be withdrawn by an employee at any time upon filing of a written notice of such withdrawal with the State Comptroller. The deductions shall be in accordance with reasonable rules and regulations of the Comptroller not inconsistent with law which may be necessary for the exercise of this authority under this Article.

ARTICLE 20

Uniforms

Certain terms of this Article apply only to employees who are ineligible for Interest Arbitration pursuant to Civil Service Law Section 209(4) on the date of the execution of this Agreement, indicated by the phrase (Interest Arbitration ineligible employees).

20.1 When the Employer requires an employee to wear a uniform, the Employer shall continue to furnish such employee with a uniform or replacement of such part of such uniform as may reasonably be necessary pursuant to the policies of each appointing authority which were in effect on March 31, 1985 except as modified in Section 20.2 below.

20.2 All Interest Arbitration ineligible employees in the unit on the payroll on the last day of the payroll period in which November 1 falls shall receive an allowance, by separate check, for uniform cleaning and maintenance on or about December 1 of each year of this Agreement as follows:

December 1, 2009 - \$681

December 1, 2010 - \$708

Effective 3/31/2011, the uniform allowance shall be increased to \$1075, rolled into base and eliminated as a separate payment for all full-time salaried employees not subject to Appendix D.

Permanent part-time employees will also be eligible for a uniform allowance at a prorated amount equal to the prorated amount of their respective employment.

This allowance replaces all existing uniform cleaning provisions and/or allowances and shall cover all uniform cleaning and maintenance requirements (e.g., sewing, patches, etc.), and the provision and repair of uniform shoes.

20.3 Whenever replacement of uniform parts or equipment is not available, the Department, agency or institution will make a reasonable effort to secure replacements as soon as is practicable.

ARTICLE 21
Indemnification

21.1 Pursuant to Section 24 of the Correction Law and Section 19.13 of the Mental Hygiene Law, no civil action shall be brought in any court of the State, except by the Attorney General on behalf of the State, against any officer or employee of the Office of Alcoholism and Substance Abuse who is charged with the duties of securing the custody of a drug dependent person or a person in need of care and treatment for alcoholism, or against any officer or employee of the Department of Corrections and Community Supervision, in his personal capacity for damages arising out of any act done or the failure to perform any act within the scope of employment and in the discharge of duties by any such officer or employee. Any claim for damages arising out of any act done or the failure to perform any acts within the scope of the employment and in the discharge of the duties of such officer or employee shall be brought and maintained in the Court of Claims as a claim against the State.

21.2 The Employer shall continue existing policies as established by Section 24 of the Correction Law and Section 19.13 of the Mental Hygiene Law, relating to claims filed in a court of the United States for civil damages under the Federal Civil Rights Act against an employee in the Department of Corrections and Community Supervision or in the Office of Alcoholism and Substance Abuse.

21.3 The Employer acknowledges its obligations to provide for the defense of its employees, and to save harmless and indemnify such employees from financial loss as hereinafter provided, to the broadest extent possible consistent with the provisions of

Section 17 of the Public Officers Law in effect upon the date of execution of this Agreement.

21.4 The Employer agrees to provide for the defense of the employee as set forth in subdivision 2 of Section 17 of the Public Officers Law in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties including actions brought to enforce a provision of section 1981 or 1983 of Title 42 of the United States Code. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the State, provided further, that the duty to defend or indemnify and save harmless shall be conditioned upon (a) delivery to the Attorney General or an assistant Attorney General at an office of the Department of Law in the State by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, and (b) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the State based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the State provide for his defense pursuant to this section.

21.5 The Employer agrees to indemnify and save harmless its employees as set forth in subdivision 3 of Section 17 of the Public Officers Law in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim, or shall pay such judgment or settlement, provided that the act or omission from which such judgment or settlement arose, occurred while

the employee was acting within the scope of his public employment or duties; the duty to indemnify and save harmless prescribed by this section shall not arise where the injury or damage resulted from intentional wrongdoing on the part of the employee, provided further, that nothing contained herein shall authorize the State to indemnify or save harmless an employee with respect to fines or penalties, or money recovered from an employee pursuant to article 7-a of the State Finance Law; provided, however, that the State shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered into in any court of this State or of the United States.

21.6 The employee shall inform his supervisor when he informs the Attorney General of the services he has received under Sections 21.2 or 21.3 above. In addition, Sections 21.3, 21.4 and 21.5 of this Article shall not apply to an employee of the Department of Corrections and Community Supervision or the Office of Alcoholism and Substance Abuse to the extent he is covered by Sections 21.1 and 21.2 of this Article.

21.7(a) The Employer agrees to continue to provide the protection described in Section 19 of the Public Officers Law providing reimbursement for reasonable attorneys' fees and litigation expenses incurred by or on behalf of an employee in his successful defense in a criminal proceeding in a state or federal court arising out of any act which occurred while the employee was acting within the scope of his public employment or duties, upon acquittal or dismissal of criminal charges.

(b) The Employer agrees to continue to provide the protection described in Section 19 of the Public Officers Law providing for reimbursement of costs of employees for reasonable attorneys' fees for appearances before a grand jury arising out of any act which occurred while such employee was acting within the scope of his public employment or duties.

21.8 The Employer and the Union agree to enter into a contract to provide for the implementation of a legal defense fund, in the amount of \$150,000 in accordance with such terms as shall be jointly agreed upon by the parties and subject to the approval of the Comptroller, to be administered by the Union to provide legal defense for the members of the Security Services Unit who are represented by the Union for each year covered by this Agreement who may be defendants or witnesses in criminal or civil matters arising out of the discharge of their duties and in the course of their employment where Public Officers Law Sections 17 and 19 do not provide such representation.

21.9 The Employer as a self-insurer agrees to provide adequate liability coverage for employees who use their homes in the performance of their official duty.

ARTICLE 22

Safe Working Conditions

22.1 The Employer shall provide safe working conditions for the protection of employee well-being. The Employer and the Union remain committed to a cooperative effort to provide safe working conditions for employees. Consistent with this commitment, the Employer and the Union have entered into a Memorandum of Understanding to better and more effectively deal with and respond to health and safety issues at the work site.

22.2 Any matters pertaining to safety standards and conditions may be discussed in labor/management committees at the appropriate level including the executive level.

22.3 The parties recognize that in the course of their employment, employees provide various services to individuals with chronic illnesses and infectious diseases including HIV and may be exposed to such illnesses and diseases. For employees who are likely to have more than casual contact with individuals that may be infectious, the Employer must allow employees to take universal precautions when they may come into contact with said individuals.

22.4 As soon as practicable after the signing of the Agreement, the parties commit to meet on an agency-by-agency basis to establish guidelines which address the effects of infectious disease upon employees. Considerations shall include the issues of confidentiality, employee notification and education, use of precautions and agency policies, consistent with applicable law.

22.5 Grievances alleging failure to comply with this Article shall be processed pursuant to Article 7, paragraph 7.1(b).

ARTICLE 23

Reimbursement for Property Damage

23.1 The Employer agrees to provide for the uniform administration of the procedure for reimbursement to employees for personal property damage or destruction as provided for by subdivision 12 of Section 8 of the State Finance Law which provides for the payment of any claim submitted and approved by the head of a State department or agency having employees in the Security Services Unit for personal property of employees of such unit damaged or destroyed without fault on his part as a result of actions unique to the performance of law enforcement duties to include actions during fire, search, and rescue duties, in accordance with rules and regulations promulgated by the department or agency head after consultation with the Union and with the approval of the Comptroller.

23.2 The Employer agrees to provide for payments of up to \$350 out of local funds at the institution level as provided by subdivision 12 of Section 8 of the State Finance Law.

23.3 Allowances shall be based upon the reasonable value of the property involved and payment shall be made against a satisfactory release.

ARTICLE 24

Seniority

24.1 For the purposes of this Article, seniority shall be defined as the length of an employee's uninterrupted service in title including sick leave, military leaves not to exceed four years, and other leaves of absence which do not exceed one year and Workers' Compensation Leave.

24.2 Seniority shall be the basis by which employees shall select pass days.

24.3 The Employer shall have the right to make any job or shift assignment necessary to maintain the services of the department or agency involved. However, job assignments and shift selection shall be made in accordance with seniority provided the employee has the ability to properly perform the work involved. Before making a permanent assignment the Employer shall post all permanent vacancies in shifts or job assignments for a period of 30 days during which employees may bid. Bids shall be awarded at the end of the 30 day bidding period. The employee will start the new assignment within two weeks after the close of the 30 day bid period except when extended by mutual consent, but in no case longer than 30 days from the award of the bid. Grievances arising under this section shall be processed up to Step 3 of the grievance procedure but not to arbitration.

24.4 An employee shall not have the right to bump for any reason.

24.5 The shift and pass day provisions of this Article shall not apply to those departments or agencies whose employees function on a rotating shift basis.

24.6 Nothing contained in Section 24.2 of this Article shall prevent mutually agreed to local arrangements regarding the method that pass days are to be selected.

24.7 The Employer agrees to provide the Union a list of its employees by department or agency and seniority and to update it quarterly.

ARTICLE 25

Labor/Management Committees

25.1 To facilitate communication between the parties and to promote a climate conducive to constructive employee relations, joint labor/management committees shall be established at the executive, departmental and local levels of operations to discuss the implementation of this Agreement and other matters of mutual interest. The size of the committees shall be limited to the least number of representatives needed to accomplish their objectives. Committee size shall be determined by mutually agreed upon arrangements at the appropriate level. The composition of each local Union's labor/management committee shall be at the discretion of the Union. Time approved for such meetings shall be authorized only for employees of the department or agency for which the meeting is held except that the President and five regional Vice Presidents of a statewide local can be granted time for departmental level labor/management committee meetings in agencies other than their own.

25.2 Such committees will meet as necessary. Written agenda will be submitted a week in advance of regular meetings. Special meetings may be requested by either party. An agenda will be submitted along with the request. Such special meetings will be scheduled as soon as possible.

25.3 Approved time spent in such meetings (including actual and necessary travel time, not to exceed eight hours each way, for executive and department level meetings) shall neither be charged to leave credits nor considered as overtime worked. Management shall make every effort to reschedule shift assignments or pass days so that meetings fall during working hours of Union representatives.

25.4 Labor/management committee meetings shall be conducted in good faith. These committees shall have no power to contravene any provisions of this Agreement or to agree to take any action beyond the authority of the management at the level at

which the meeting takes place. Matters may be referred to and from the facility and department or agency levels as necessary. The parties may issue joint meeting minutes and letters of understanding. Any arrangement which is mutually agreed upon shall be reduced to writing within 14 calendar days. Any arrangement which is the subject of a memorandum of understanding, letter of understanding or joint meeting minutes shall not be altered or modified by either party without first meeting and discussing with the other party at the appropriate level in a good faith effort to reach a successor agreement. Any alterations or modifications to a written local labor/management agreement as described in this section may occur no sooner than five days after such meeting and discussion and subsequent written notification of the changes received by the other party. Implementation of such alterations or modifications shall not occur without adherence to the procedures herein described. In cases where emergency conditions necessitate a variation of an established labor/management agreement by either party, the other party must be notified of such variation as soon as possible. Such variation will be reviewed by the designated Union and Management Chairs of the local labor/management committee within seven days. Disagreements growing out of the implementation of memorandum or letters of understanding may be initiated at the 3rd Step of the grievance procedure as contained in Article 7, paragraph 7.1(b).

25.5 Staff representatives of the Governor's Office of Employee Relations and the Union will render assistance to local joint committees in procedural and substantive issues as necessary to fulfill the objectives of this Article and may participate in such meetings.

25.6 The Employer and the Union will review the manner in which quality of work life efforts should be provided in this unit. Effective April 1, 2012, funding will be appropriated for that year and each successive year of this Agreement, as set forth in Article 1.1, for a statewide labor/management committee in the amount of \$279,000.

Effective April 1, 2014 that amount shall be increased to \$284,580; Effective April 1, 2015 that amount shall be increased to \$290, 272.

This section is not subject to the provisions of Article 7 of this Agreement.

25.7(a) The Employer shall continue the program established by Section 154-b(8) of the Civil Service Law to provide a survivor's benefit in the amount of \$50,000 in the event that an employee dies on or after the effective date of this Agreement as a result of an accidental on-the-job injury or disease provided that it is finally determined by the appropriate federal authorities that a public safety officer's death benefit is not payable pursuant to Section 3796 through Section 3796-C of Title 42 of the United States Code (the Federal Public Safety Officer Benefit Act) and provided that a death benefit is paid pursuant to the Workers' Compensation Law. Such survivor's benefit shall be paid to the employee's surviving spouse and dependent children as designated by the Workers' Compensation Board and in the same proportion as provided in the Workers' Compensation Law. In the event an employee is not survived by a spouse or dependent children, the survivor's benefit shall be paid to the estate of the employee. Such survivor's benefit shall be in addition to and not in place of any other survivor's or death benefit except that such benefit will not be payable if a public safety officer's death benefit is payable pursuant to the Federal Public Safety Officer Benefit Act.

(b) The Employer shall continue the program established by Section 154-b(3) of the Civil Service Law to provide an employee's dependent child or children who are designated to receive a death benefit by the Workers' Compensation Board as a result of a determination that such employee has died of an on-the-job injury or disease on or after the effective date of this Agreement with full tuition up to the amount charged by a SUNY college or university to attend any college or university provided such child or children meet the entrance requirements of that college or university.

25.8 The Employer shall not contract out for goods and services performed by employees which will result in any employee being reduced or laid off without prior

consultation with the Union concerning any possible effect on the terms and conditions of employment of employees covered by this Agreement.

25.9 The State of New York as the Employer and the Union agree that they shall hereinafter enter into a contract to provide for the implementation of an employee benefit fund, in accordance with such terms as shall be jointly agreed upon by the parties and subject to the approval of the Comptroller, to be administered by the Union to provide certain benefits for full-time annual salaried employees in the Security Services Unit.

For each full-time annual salaried unit employee, the Employer shall deposit an amount in the employee benefit fund as follows: April 1, 2009, \$40; April 1, 2010, \$40; April 1, 2011, \$40; April 1, 2012, \$40; April 1, 2013, \$40; April 1, 2014, \$40.80; April 1, 2015, \$41.62. For the purposes of determining the amount to be deposited in accordance with this section, the number of employees shall be determined to be the number of full-time annual salaried unit employees on the payroll each preceding March 1, as set forth above in this paragraph.

25.10 Family Benefits

(a) Dependent Care Advantage Account (DCAA)

The Employer and Union shall continue to provide the DCAA Program provided by the New York State Labor/Management Child Care Advisory Committee to the extent that federal and state laws allow. This program will provide employees with the opportunity to increase their spendable income by paying for all or part of selected benefits such as child care, elder care and dependent care with pre-tax dollars.

Effective on the date of ratification of this Agreement, the State shall provide an annual contribution to the Dependent Care Advantage Account as follows:

Employee Gross Annual Salary Employer Contribution

Under \$30,000	\$700
\$30,001-\$40,000	\$600
\$40,001-\$50,000	\$500
\$50,001-\$60,000	\$400
\$60,001-\$70,000	\$300
Over \$70,000	\$200

In subsequent years, the Employer contribution may be increased or reduced so as to fully expend available funds for this purpose, while maintaining salary sensitive differentials. In no event shall the aggregate employer contribution exceed the amounts provided for this purpose. In the interest of providing greater availability of dependent care and other services to NYSCOPBA-represented employees and maximizing resources available, the Family Benefits Program may support additional initiatives as recommended by the Advisory Committee.

A Joint Labor/Management Advisory Committee, which recognizes the need for combined representation of all employee negotiating units, and the State, will monitor and evaluate the Family Benefits Program and other work-life services.

Mutually agreed to activities of this Committee shall be funded pursuant to this section.

- (b) The parties agree to participate in the LifeWorks program.
- (c) The parties agree to continue participation in the Directions Program.

(d) Effective April 1, 2012 funding for the programs in this section, 25.10, shall be provided as follows: for DCAA and LifeWorks, \$430,500 for that year and each successive year of the contract as set forth in Article 1.1. Effective April 1, 2014 that amount shall be increased to \$439,110; Effective April 1, 2015 that amount shall be increased to \$447,892. This shall include funding for Directions with the agreed upon amount for each year. The parties agree that such funding is effective on the April 1, 2012, and shall sunset on the expiration date of this Agreement, unless extended by written mutual agreement by the parties.

25.11 The parties agree to form a joint labor-management committee to review and evaluate all leave usage by unit members who are interest arbitration ineligible and the manner of such usage and make recommendations to the Director of GOER and the President of NYSCOPBA for implementation.

ARTICLE 26
No Strike Clause

26.1 No lock out of employees shall be instituted by the Employer during the term of this Agreement.

26.2 No strike of any kind shall be instigated, encouraged, condoned or caused by the Union during the term of this Agreement.

ARTICLE 27

Preservation of Benefits

With respect to matters not covered by this Agreement, the Employer will not seek to diminish or impair during the term of this Agreement any benefit or privilege provided by law, rule or regulation for employees without prior notice to the Union and when appropriate, without negotiations with the Union provided, however, that this Agreement shall be construed consistent with the free exercise of rights reserved to the Employer by Article 6 of this Agreement.

ARTICLE 28
Savings Clause

Should any article, section or portion thereof of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction or shall have the effect of loss to the State of funds made available through Federal law, such decision shall apply only to the specific article, section or portion thereof directly specified in the decision; upon the issuance of such a decision the parties agree immediately to negotiate a substitute for such article, section or portion thereof.

ARTICLE 29

Printing of Agreement

The Union shall be responsible for reproducing this Agreement. Distribution to the State and to employees will occur as soon as practicable following the execution of this Agreement. The cost of printing this Agreement shall be shared equally by the Union and the State.

ARTICLE 30
APPROVAL OF THE LEGISLATURE

It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefore, shall not become effective until the appropriate legislative body has given approval.

ARTICLE 31

Conclusion of Collective Negotiations

31.1 The Employer and the Union agree that this Agreement is the entire Agreement, terminates all prior agreements or understandings and concludes all collective negotiations during its term. Neither party will during the term of this Agreement seek to unilaterally modify its terms through legislation or other means which may be available to them.

31.2 The parties acknowledge that, except as otherwise expressly provided herein, they have fully negotiated with respect to the terms and conditions of employment and have settled them for the term of this Agreement in accordance with the provisions thereof.

31.3 The Employer and the Union agree to support jointly any legislation or administrative action necessary to implement the provisions of this Agreement.

IN WITNESS THEREOF, The parties hereto have caused this Agreement to be signed by their respective representatives.

DATED:

**FOR NYS CORRECTIONAL OFFICERS
AND POLICE BENEVOLENT
ASSOCIATION**

**THE EXECUTIVE BRANCH OF
THE STATE OF NEW YORK,
GOVERNOR'S OFFICE OF
EMPLOYEE RELATIONS**

SECURITY UNIT EMPLOYEES

Donn Rowe
President

Joseph Bress
Chief Negotiator

Vincent Blasio
Secretary

Michael Volforte
Interim Director

Darryl Decker
Assistant Director
Employee Benefits Management Unit

Robert Dubois
Director
Employee Benefits Division
Department of Civil Service

APPENDIX A-1

NYSOPBA SALARY SCHEDULE INTEREST ARBITRATION INELIGIBLE Effective March 26, 2009 (Institution) and Effective April 2, 2009 (Administration)

SG	Hiring Rate	Perf.	Perf.	Perf.	Perf.	Perf.	Job Rate	Perf. Adv.	10 Yr.	15 Yr.	20 Yr.	Long Max.
		Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5			Long Step	Long Step	Long Step	Long Step
1	21404	22312	23220	24128	25036	25944	26852	908	28491	29933	32537	33979
2	22193	23149	24105	25061	26017	26973	27929	956	29662	31187	33863	35388
3	23298	24295	25292	26289	27286	28283	29280	997	31088	32679	35410	37002
4	24355	25406	26457	27508	28559	29610	30661	1051	32690	34233	37039	38582
5	25520	26623	27726	28829	29932	31035	32138	1103	34138	35895	38776	40535
6	26869	28032	29195	30358	31521	32684	33847	1163	35953	37809	40771	42627
7	28403	29612	30821	32030	33239	34448	35657	1209	37847	39774	42799	44726
8	30017	31273	32529	33785	35041	36297	37553	1256	39828	41832	44921	46924
9	31706	33017	34328	35639	36950	38261	39572	1311	41950	44043	47215	49307
10	33520	34898	36276	37654	39032	40410	41788	1378	44279	46475	49729	51923
11	35515	36949	38383	39817	41251	42685	44119	1434	46714	48998	52333	54617
12	37505	39002	40499	41996	43493	44990	46487	1497	49203	51592	55017	57408
13	39758	41321	42884	44447	46010	47573	49136	1563	51964	54453	57966	60456
14	42057	43696	45335	46974	48613	50252	51891	1639	54854	57463	61078	63687
15	44490	46195	47900	49605	51310	53015	54720	1705	57806	60522	64233	66950
16	47013	48796	50579	52362	54145	55928	57711	1783	60937	63777	67590	70429
17	49669	51546	53423	55300	57177	59054	60931	1877	64327	67313	71259	74246
18	52504	54475	56446	58417	60388	62359	64330	1971	67899	71041	75120	78264
19	55380	57437	59494	61551	63608	65665	67722	2057	71448	74727	78924	82204
20	58234	60384	62534	64684	66834	68984	71134	2150	75033	78462	82794	86224
21	61379	63620	65861	68102	70343	72584	74825	2241	78889	82466	86919	90495
22	64668	67042	69416	71790	74164	76538	78912	2374	83210	86989	91624	95404
23	68178	70620	73062	75504	77946	80388	82830	2442	87257	91154	95885	99783
24	71876	74411	76946	79481	82016	84551	87086	2535	91675	95713	100571	104610
25	75897	78539	81181	83823	86465	89107	91749	2642	96534	100746	105751	109962

NYSCOPBA SALARY SCHEDULE
INTEREST ARBITRATION INELIGIBLE
Effective March 25, 2010 (Institution) and
Effective April 1, 2010 (Administration)

SG	Hiring Rate	Perf.	Perf.	Perf.	Perf.	Perf.	Job Rate	Perf. Adv.	10 Yr.	15 Yr.	20 Yr.	Long Max
		Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5			Long Step	Long Step	Long Step	Long Step
1	22260	23204	24148	25092	26036	26980	27924	944	29629	31128	33836	35336
2	23081	24075	25069	26063	27057	28051	29045	994	30847	32433	35216	36802
3	24230	25267	26304	27341	28378	29415	30452	1037	32332	33987	36827	38483
4	25329	26422	27515	28608	29701	30794	31887	1093	33997	35602	38520	40125
5	26541	27688	28835	29982	31129	32276	33423	1147	35503	37330	40327	42156
6	27944	29154	30364	31574	32784	33994	35204	1210	37394	39324	42405	44335
7	29539	30796	32053	33310	34567	35824	37081	1257	39359	41363	44509	46513
8	31218	32524	33830	35136	36442	37748	39054	1306	41420	43504	46717	48800
9	32974	34338	35702	37066	38430	39794	41158	1364	43631	45808	49107	51282
10	34861	36294	37727	39160	40593	42026	43459	1433	46050	48333	51718	53999
11	36936	38427	39918	41409	42900	44391	45882	1491	48581	50956	54425	56800
12	39005	40562	42119	43676	45233	46790	48347	1557	51172	53656	57218	59705
13	41348	42974	44600	46226	47852	49478	51104	1626	54045	56634	60287	62877
14	43739	45444	47149	48854	50559	52264	53969	1705	57051	59764	63523	66237
15	46270	48043	49816	51589	53362	55135	56908	1773	60117	62942	66802	69627
16	48894	50748	52602	54456	56310	58164	60018	1854	63373	66327	70292	73245
17	51656	53608	55560	57512	59464	61416	63368	1952	66900	70005	74109	77216
18	54604	56654	58704	60754	62804	64854	66904	2050	70616	73883	78126	81395
19	57595	59734	61873	64012	66151	68290	70429	2139	74304	77714	82079	85490
20	60563	62799	65035	67271	69507	71743	73979	2236	78034	81600	86105	89673
21	63834	66165	68496	70827	73158	75489	77820	2331	82047	85767	90398	94117
22	67255	69724	72193	74662	77131	79600	82069	2469	86539	90469	95289	99221
23	70905	73445	75985	78525	81065	83605	86145	2540	90749	94802	99722	103776
24	74751	77387	80023	82659	85295	87931	90567	2636	95340	99539	104591	108792
25	78933	81681	84429	87177	89925	92673	95421	2748	100397	104778	109983	114363

NYSCOPBA SALARY SCHEDULE
INTEREST ARBITRATION INELIGIBLE
Effective March 31, 2011 (Institution) and
Effective March 31, 2011 (Administration)

SG	Hiring Rate	Perf.	Perf.	Perf.	Perf.	Perf.	Job Rate	Perf. Adv.	10 Yr.	15 Yr.	20 Yr.	Long Max.
		Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5			Long Step	Long Step	Long Step	Long Step
1	24335	25279	26223	27167	28111	29055	29999	944	31704	33203	35911	37411
2	25156	26150	27144	28138	29132	30126	31120	994	32922	34508	37291	38877
3	26305	27342	28379	29416	30453	31490	32527	1037	34407	36062	38902	40558
4	27404	28497	29590	30683	31776	32869	33962	1093	36072	37677	40595	42200
5	28616	29763	30910	32057	33204	34351	35498	1147	37578	39405	42402	44231
6	30019	31229	32439	33649	34859	36069	37279	1210	39469	41399	44480	46410
7	31614	32871	34128	35385	36642	37899	39156	1257	41434	43438	46584	48588
8	33293	34599	35905	37211	38517	39823	41129	1306	43495	45579	48792	50875
9	35049	36413	37777	39141	40505	41869	43233	1364	45706	47883	51182	53357
10	36936	38369	39802	41235	42668	44101	45534	1433	48125	50408	53793	56074
11	39011	40502	41993	43484	44975	46466	47957	1491	50656	53031	56500	58875
12	41080	42637	44194	45751	47308	48865	50422	1557	53247	55731	59293	61780
13	43423	45049	46675	48301	49927	51553	53179	1626	56120	58709	62362	64952
14	45814	47519	49224	50929	52634	54339	56044	1705	59126	61839	65598	68312
15	48345	50118	51891	53664	55437	57210	58983	1773	62192	65017	68877	71702
16	50969	52823	54677	56531	58385	60239	62093	1854	65448	68402	72367	75320
17	53731	55683	57635	59587	61539	63491	65443	1952	68975	72080	76184	79291
18	56679	58729	60779	62829	64879	66929	68979	2050	72691	75958	80201	83470
19	59670	61809	63948	66087	68226	70365	72504	2139	76379	79789	84154	87565
20	62638	64874	67110	69346	71582	73818	76054	2236	80109	83675	88180	91748
21	65909	68240	70571	72902	75233	77564	79895	2331	84122	87842	92473	96192
22	69330	71799	74268	76737	79206	81675	84144	2469	88614	92544	97364	101296
23	72980	75520	78060	80600	83140	85680	88220	2540	92824	96877	101797	105851
24	76826	79462	82098	84734	87370	90006	92642	2636	97415	101614	106666	110867
25	81008	83756	86504	89252	92000	94748	97496	2748	102472	106853	112058	116438

NYSOPBA SALARY SCHEDULE
INTEREST ARBITRATION INELIGIBLE
Effective April 3, 2014 (Institution) and
Effective March 27, 2014 (Administration)

SG	Hiring Rate	Perf.	Perf.	Perf.	Perf.	Perf.	Job Rate	Perf. Adv.	10 Yr.	15 Yr.	20 Yr.	Long Max.
		Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5			Long Step	Long Step	Long Step	Long Step
1	24822	25785	26748	27711	28674	29637	30600	963	32339	33868	36630	38160
2	25659	26673	27687	28701	29715	30729	31743	1014	33581	35199	38037	39655
3	26831	27889	28947	30005	31063	32121	33179	1058	35097	36785	39682	41371
4	27952	29067	30182	31297	32412	33527	34642	1115	36794	38431	41408	43045
5	29188	30358	31528	32698	33868	35038	36208	1170	38330	40193	43250	45116
6	30619	31853	33087	34321	35555	36789	38023	1234	40257	42225	45368	47337
7	32246	33528	34810	36092	37374	38656	39938	1282	42262	44306	47515	49559
8	33959	35291	36623	37955	39287	40619	41951	1332	44364	46490	49767	51892
9	35750	37141	38532	39923	41314	42705	44096	1391	46618	48839	52204	54422
10	37675	39137	40599	42061	43523	44985	46447	1462	49090	51418	54871	57198
11	39791	41312	42833	44354	45875	47396	48917	1521	51670	54092	57631	60053
12	41902	43490	45078	46666	48254	49842	51430	1588	54312	56845	60478	63015
13	44291	45950	47609	49268	50927	52586	54245	1659	57245	59886	63612	66253
14	46730	48469	50208	51947	53686	55425	57164	1739	60308	63075	66909	69677
15	49312	51121	52930	54739	56548	58357	60166	1809	63439	66321	70258	73139
16	51988	53879	55770	57661	59552	61443	63334	1891	66756	69769	73813	76826
17	54806	56797	58788	60779	62770	64761	66752	1991	70355	73522	77708	80877
18	57813	59904	61995	64086	66177	68268	70359	2091	74145	77478	81805	85140
19	60863	63045	65227	67409	69591	71773	73955	2182	77908	81386	85838	89317
20	63891	66172	68453	70734	73015	75296	77577	2281	81713	85350	89946	93585
21	67227	69605	71983	74361	76739	79117	81495	2378	85807	89601	94325	98118
22	70717	73235	75753	78271	80789	83307	85825	2518	90384	94393	99309	103320
23	74440	77031	79622	82213	84804	87395	89986	2591	94682	98816	103835	107970
24	78363	81052	83741	86430	89119	91808	94497	2689	99365	103648	108801	113087
25	82628	85431	88234	91037	93840	96643	99446	2803	104522	108990	114299	118767

NYSCOPBA SALARY SCHEDULE
INTEREST ARBITRATION INELIGIBLE
Effective April 2, 2015 (Institution) and
Effective March 26, 2015 (Administration)

SG	Hiring Rate	Perf.	Perf.	Perf.	Perf.	Perf.	Job Rate	Perf. Adv.	10 Yr.	15 Yr.	20 Yr.	Long Max.
		Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5			Long Step	Long Step	Long Step	Long Step
1	25318	26300	27282	28264	29246	30228	31210	982	32984	34543	37361	38921
2	26172	27206	28240	29274	30308	31342	32376	1034	34251	35901	38796	40446
3	27368	28447	29526	30605	31684	32763	33842	1079	35798	37520	40475	42198
4	28511	29648	30785	31922	33059	34196	35333	1137	37528	39198	42234	43904
5	29772	30965	32158	33351	34544	35737	36930	1193	39094	40995	44113	46016
6	31231	32490	33749	35008	36267	37526	38785	1259	41064	43071	46277	48285
7	32891	34199	35507	36815	38123	39431	40739	1308	43109	45194	48468	50552
8	34638	35997	37356	38715	40074	41433	42792	1359	45253	47422	50764	52932
9	36465	37884	39303	40722	42141	43560	44979	1419	47551	49817	53249	55512
10	38429	39920	41411	42902	44393	45884	47375	1491	50071	52445	55967	58341
11	40587	42138	43689	45240	46791	48342	49893	1551	52701	55172	58781	61252
12	42740	44360	45980	47600	49220	50840	52460	1620	55400	57983	61689	64277
13	45177	46869	48561	50253	51945	53637	55329	1692	58389	61083	64883	67577
14	47665	49439	51213	52987	54761	56535	58309	1774	61516	64338	68249	71072
15	50298	52143	53988	55833	57678	59523	61368	1845	64706	67646	71662	74600
16	53028	54957	56886	58815	60744	62673	64602	1929	68092	71166	75291	78364
17	55902	57933	59964	61995	64026	66057	68088	2031	71763	74993	79263	82496
18	58969	61102	63235	65368	67501	69634	71767	2133	75629	79028	83442	86844
19	62080	64306	66532	68758	70984	73210	75436	2226	79468	83016	87557	91105
20	65169	67496	69823	72150	74477	76804	79131	2327	83350	87059	91747	95459
21	68572	70998	73424	75850	78276	80702	83128	2426	87526	91396	96215	100083
22	72131	74700	77269	79838	82407	84976	87545	2569	92195	96284	101299	105390
23	75929	78572	81215	83858	86501	89144	91787	2643	96577	100794	105913	110131
24	79930	82673	85416	88159	90902	93645	96388	2743	101353	105722	110978	115350
25	84281	87140	89999	92858	95717	98576	101435	2859	106613	111170	116585	121142

APPENDIX A-2

NYSOPBA SALARY SCHEDULE INTERST ARBITRATION ELIGIBLE

**Effective March 26, 2009 (Institution) and
Effective April 2, 2009 (Administration)**

SG	Hiring Rate	Perf.	Perf.	Perf.	Perf.	Perf.	Job Rate	Perf. Adv.	10 Yr.	15 Yr.	20 Yr.	Long Max.
		Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5			Long Step	Long Step	Long Step	Long Step
1	23,964	24,896	25,828	26,760	27,692	28,624	29,556	932	31,203	32,652	35,268	36,718
2	24,775	25,757	26,739	27,721	28,703	29,685	30,667	982	32,408	33,942	36,631	38,164
3	25,908	26,933	27,958	28,983	30,008	31,033	32,058	1,025	33,874	35,473	38,217	39,816
4	26,994	28,075	29,156	30,237	31,318	32,399	33,480	1,081	35,519	37,072	39,889	41,441
5	28,191	29,325	30,459	31,593	32,727	33,861	34,995	1,134	37,005	38,773	41,666	43,435
6	29,576	30,771	31,966	33,161	34,356	35,551	36,746	1,195	38,863	40,727	43,703	45,566
7	31,153	32,395	33,637	34,879	36,121	37,363	38,605	1,242	40,806	42,743	45,782	47,717
8	32,812	34,102	35,392	36,682	37,972	39,262	40,552	1,290	42,840	44,852	47,957	49,970
9	34,547	35,894	37,241	38,588	39,935	41,282	42,629	1,347	45,021	47,123	50,309	52,413
10	36,413	37,829	39,245	40,661	42,077	43,493	44,909	1,416	47,414	49,618	52,888	55,094
11	38,463	39,937	41,411	42,885	44,359	45,833	47,307	1,474	49,914	52,211	55,562	57,859
12	40,505	42,044	43,583	45,122	46,661	48,200	49,739	1,539	52,469	54,869	58,312	60,713
13	42,821	44,427	46,033	47,639	49,245	50,851	52,457	1,606	55,300	57,800	61,333	63,831
14	45,183	46,867	48,551	50,235	51,919	53,603	55,287	1,684	58,265	60,885	64,518	67,138
15	47,684	49,435	51,186	52,937	54,688	56,439	58,190	1,751	61,292	64,021	67,748	70,477
16	50,277	52,107	53,937	55,767	57,597	59,427	61,257	1,830	64,498	67,350	71,186	74,038
17	53,002	54,931	56,860	58,789	60,718	62,647	64,576	1,929	67,987	70,989	74,954	77,956
18	55,918	57,941	59,964	61,987	64,010	66,033	68,056	2,023	71,642	74,800	78,899	82,055
19	58,873	60,987	63,101	65,215	67,329	69,443	71,557	2,114	75,301	78,595	82,813	86,107
20	61,805	64,015	66,225	68,435	70,645	72,855	75,065	2,210	78,982	82,430	86,780	90,229
21	65,034	67,337	69,640	71,943	74,246	76,549	78,852	2,303	82,935	86,530	91,007	94,600
22	68,416	70,855	73,294	75,733	78,172	80,611	83,050	2,439	87,369	91,167	95,826	99,625
23	72,024	74,533	77,042	79,551	82,060	84,569	87,078	2,509	91,528	95,443	100,199	104,114
24	75,823	78,425	81,027	83,629	86,231	88,833	91,435	2,602	96,045	100,103	104,987	109,045
25	79,954	82,668	85,382	88,096	90,810	93,524	96,238	2,714	101,046	105,279	110,309	114,543

**NYSCOPBA SALARY SCHEDULE
INTEREST ARBITRATION ELIGIBLE
Effective March 25, 2010 (Institution) and
Effective April 1, 2010 (Administration)**

SG	Hiring Rate	Perf.	Perf.	Perf.	Perf.	Perf.	Job Rate	Perf. Adv.	10 Yr.	15 Yr.	20 Yr.	Long Max. 25 Yr.
		Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5			Long Step	Long Step	Long Step	Long Step
1	24,923	25,892	26,861	27,830	28,799	29,768	30,737	969	32,450	33,957	36,677	38,185
2	25,766	26,787	27,808	28,829	29,850	30,871	31,892	1,021	33,703	35,298	38,095	39,689
3	26,944	28,010	29,076	30,142	31,208	32,274	33,340	1,066	35,229	36,892	39,745	41,408
4	28,074	29,198	30,322	31,446	32,570	33,694	34,818	1,124	36,939	38,554	41,483	43,097
5	29,319	30,498	31,677	32,856	34,035	35,214	36,393	1,179	38,483	40,322	43,331	45,171
6	30,759	32,002	33,245	34,488	35,731	36,974	38,217	1,243	40,419	42,357	45,452	47,390
7	32,399	33,691	34,983	36,275	37,567	38,859	40,151	1,292	42,440	44,455	47,615	49,627
8	34,124	35,466	36,808	38,150	39,492	40,834	42,176	1,342	44,556	46,648	49,877	51,971
9	35,929	37,330	38,731	40,132	41,533	42,934	44,335	1,401	46,823	49,009	52,322	54,510
10	37,870	39,343	40,816	42,289	43,762	45,235	46,708	1,473	49,313	51,605	55,006	57,300
11	40,002	41,535	43,068	44,601	46,134	47,667	49,200	1,533	51,911	54,300	57,785	60,174
12	42,125	43,726	45,327	46,928	48,529	50,130	51,731	1,601	54,570	57,066	60,647	63,144
13	44,534	46,204	47,874	49,544	51,214	52,884	54,554	1,670	57,511	60,111	63,785	66,383
14	46,990	48,741	50,492	52,243	53,994	55,745	57,496	1,751	60,593	63,318	67,096	69,821
15	49,591	51,412	53,233	55,054	56,875	58,696	60,517	1,821	63,743	66,581	70,457	73,295
16	52,288	54,191	56,094	57,997	59,900	61,803	63,706	1,903	67,077	70,043	74,032	76,998
17	55,122	57,128	59,134	61,140	63,146	65,152	67,158	2,006	70,705	73,828	77,951	81,073
18	58,155	60,259	62,363	64,467	66,571	68,675	70,779	2,104	74,508	77,793	82,056	85,338
19	61,228	63,427	65,626	67,825	70,024	72,223	74,422	2,199	78,316	81,742	86,128	89,554
20	64,277	66,576	68,875	71,174	73,473	75,772	78,071	2,299	82,145	85,731	90,255	93,842
21	67,635	70,030	72,425	74,820	77,215	79,610	82,005	2,395	86,251	89,990	94,646	98,383
22	71,153	73,690	76,227	78,764	81,301	83,838	86,375	2,537	90,867	94,817	99,662	103,613
23	74,905	77,514	80,123	82,732	85,341	87,950	90,559	2,609	95,187	99,259	104,205	108,276
24	78,856	81,562	84,268	86,974	89,680	92,386	95,092	2,706	99,886	104,107	109,186	113,406
25	83,152	85,975	88,798	91,621	94,444	97,267	100,090	2,823	105,090	109,493	114,724	119,127

**NYSCOPBA SALARY SCHEDULE
INTEREST ARBITRATION ELIGIBLE
Effective April 3, 2014 (Institution) and
Effective March 27, 2014 (Administration)**

		Perf.	Perf.	Perf.	Perf.	Perf.			10 Yr.	15 Yr.	20 Yr.	Long Max. 25 Yr.
SG	Hiring Rate	Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5	Job Rate	Perf. Adv.	Long Step	Long Step	Long Step	Long Step
1	25,421	26,410	27,399	28,388	29,377	30,366	31,355	989	33,102	34,639	37,414	38,952
2	26,281	27,323	28,365	29,407	30,449	31,491	32,533	1,042	34,380	36,007	38,860	40,486
3	27,483	28,570	29,657	30,744	31,831	32,918	34,005	1,087	35,932	37,628	40,538	42,234
4	28,635	29,782	30,929	32,076	33,223	34,370	35,517	1,147	37,680	39,328	42,315	43,962
5	29,905	31,108	32,311	33,514	34,717	35,920	37,123	1,203	39,255	41,131	44,200	46,077
6	31,374	32,642	33,910	35,178	36,446	37,714	38,982	1,268	41,228	43,205	46,362	48,338
7	33,047	34,365	35,683	37,001	38,319	39,637	40,955	1,318	43,290	45,345	48,568	50,621
8	34,806	36,175	37,544	38,913	40,282	41,651	43,020	1,369	45,448	47,581	50,875	53,011
9	36,648	38,077	39,506	40,935	42,364	43,793	45,222	1,429	47,760	49,989	53,369	55,601
10	38,627	40,130	41,633	43,136	44,639	46,142	47,645	1,503	50,302	52,640	56,109	58,449
11	40,802	42,366	43,930	45,494	47,058	48,622	50,186	1,564	52,951	55,388	58,943	61,379
12	42,968	44,601	46,234	47,867	49,500	51,133	52,766	1,633	55,662	58,208	61,860	64,407
13	45,425	47,128	48,831	50,534	52,237	53,940	55,643	1,703	58,659	61,311	65,059	67,709
14	47,930	49,716	51,502	53,288	55,074	56,860	58,646	1,786	61,805	64,584	68,438	71,218
15	50,583	52,440	54,297	56,154	58,011	59,868	61,725	1,857	65,016	67,910	71,864	74,759
16	53,334	55,275	57,216	59,157	61,098	63,039	64,980	1,941	68,418	71,444	75,513	78,538
17	56,224	58,270	60,316	62,362	64,408	66,454	68,500	2,046	72,118	75,303	79,509	82,693
18	59,318	61,464	63,610	65,756	67,902	70,048	72,194	2,146	75,998	79,348	83,697	87,044
19	62,453	64,696	66,939	69,182	71,425	73,668	75,911	2,243	79,883	83,377	87,851	91,346
20	65,563	67,908	70,253	72,598	74,943	77,288	79,633	2,345	83,788	87,446	92,061	95,719
21	68,988	71,431	73,874	76,317	78,760	81,203	83,646	2,443	87,977	91,791	96,540	100,352
22	72,576	75,164	77,752	80,340	82,928	85,516	88,104	2,588	92,686	96,715	101,657	105,687
23	76,403	79,064	81,725	84,386	87,047	89,708	92,369	2,661	97,090	101,243	106,288	110,440
24	80,433	83,193	85,953	88,713	91,473	94,233	96,993	2,760	101,883	106,188	111,369	115,673
25	84,815	87,695	90,575	93,455	96,335	99,215	102,095	2,880	107,195	111,686	117,022	121,513

**NYSCOPBA SALARY SCHEDULE
INTEREST ARBITRATION ELIGIBLE
Effective April 2, 2015 (Institution) and
Effective March 26, 2015 (Administration)**

		Perf.	Perf.	Perf.	Perf.	Perf.			10 Yr.	15 Yr.	20 Yr.	Long Max.
SG	Hiring Rate	Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5	Job Rate	Perf. Adv.	Long Step	Long Step	Long Step	Long Step
1	25,929	26,938	27,947	28,956	29,965	30,974	31,983	1,009	33,765	35,333	38,163	39,732
2	26,807	27,870	28,933	29,996	31,059	32,122	33,185	1,063	35,069	36,728	39,639	41,297
3	28,033	29,142	30,251	31,360	32,469	33,578	34,687	1,109	36,653	38,382	41,351	43,081
4	29,208	30,378	31,548	32,718	33,888	35,058	36,228	1,170	38,434	40,115	43,162	44,842
5	30,503	31,730	32,957	34,184	35,411	36,638	37,865	1,227	40,040	41,953	45,084	46,998
6	32,001	33,295	34,589	35,883	37,177	38,471	39,765	1,294	42,056	44,072	47,293	49,308
7	33,708	35,052	36,396	37,740	39,084	40,428	41,772	1,344	44,154	46,250	49,537	51,631
8	35,502	36,898	38,294	39,690	41,086	42,482	43,878	1,396	46,355	48,530	51,890	54,069
9	37,381	38,839	40,297	41,755	43,213	44,671	46,129	1,458	48,718	50,991	54,439	56,716
10	39,400	40,933	42,466	43,999	45,532	47,065	48,598	1,533	51,308	53,693	57,231	59,618
11	41,618	43,213	44,808	46,403	47,998	49,593	51,188	1,595	54,008	56,494	60,120	62,605
12	43,827	45,493	47,159	48,825	50,491	52,157	53,823	1,666	56,777	59,374	63,099	65,697
13	46,334	48,071	49,808	51,545	53,282	55,019	56,756	1,737	59,832	62,537	66,360	69,063
14	48,889	50,711	52,533	54,355	56,177	57,999	59,821	1,822	63,043	65,878	69,809	72,644
15	51,595	53,489	55,383	57,277	59,171	61,065	62,959	1,894	66,316	69,268	73,301	76,254
16	54,401	56,381	58,361	60,341	62,321	64,301	66,281	1,980	69,788	72,874	77,025	80,110
17	57,348	59,435	61,522	63,609	65,696	67,783	69,870	2,087	73,560	76,809	81,099	84,347
18	60,504	62,693	64,882	67,071	69,260	71,449	73,638	2,189	77,518	80,935	85,371	88,785
19	63,702	65,990	68,278	70,566	72,854	75,142	77,430	2,288	81,481	85,045	89,609	93,174
20	66,874	69,266	71,658	74,050	76,442	78,834	81,226	2,392	85,464	89,195	93,903	97,634
21	70,368	72,860	75,352	77,844	80,336	82,828	85,320	2,492	89,738	93,628	98,472	102,360
22	74,028	76,668	79,308	81,948	84,588	87,228	89,868	2,640	94,542	98,651	103,692	107,803
23	77,931	80,645	83,359	86,073	88,787	91,501	94,215	2,714	99,030	103,266	108,412	112,647
24	82,042	84,857	87,672	90,487	93,302	96,117	98,932	2,815	103,920	108,311	113,596	117,986
25	86,511	89,449	92,387	95,325	98,263	101,201	104,139	2,938	109,341	113,922	119,365	123,945

Appendix B

Training Notices

Agencies will continue procedures to insure that notices of agency level training programs are posted for 15 days on bulletin boards whenever practical. At the request of the Union, agency level labor/management committees will review criteria and method of selection of assignment to agency training programs. If such meetings fail to resolve the issue, the Union may request an executive level labor/management meeting as provided in Article 25 to discuss the matter.

Appendix C

The items in this Appendix are reviewable pursuant to Article 7.1(b) of the Security Services Unit Agreement.

Counseling

Counseling is an effort on the part of a supervisor to provide to an employee, positively or negatively, significant feedback regarding on-the-job activity. It is meant to be a positive communications device, clarifying what has occurred and what is expected. Counseling is not disciplinary, having constructive goals, such as assisting in employee development, or teaching or modifying behavior. It involves face-to-face contact, and out of respect for the employee and the process, must be conducted in private. Counseling is a direct technique that should involve two individuals, the supervisor and the subordinate. If the counseling situation warrants that more than one supervisor be present, the employee being counseled must be afforded the opportunity to invite a Union representative who is readily available to attend the counseling session.

Counseling is not viewed as a routine matter. When contemplating the issuance of a follow up memo, supervisors should consider if that level of formal response is necessary or appropriate. Not all incidents require counseling; not all counseling requires the issuance of a memo. Consideration of this action may be appropriate for discussion with higher levels of supervision and/or the personnel department. If such a memo is issued to an employee, it must accurately describe the discussion and clearly establish expectations for the future. Overall, counseling is viewed as a supportive supervisory means of communicating with employees.

An employee is not required to sign a counseling memo. An employee may be asked to acknowledge receipt of a counseling memo by signing it prior to its placement in his official personal history folder. Such signature does not necessarily indicate agreement with the contents of the memo. The employee has the right to file a response to a counseling memo in his official personal history folder. Grievances arising out of the application of this Appendix shall be processed pursuant to Article 7, paragraph 7.1(b).

Labor/Management Agreements

It is the intention of the State to continue all existing labor/management agreements subject to the provisions of Article 25 of the Agreement and consistent with this Agreement notwithstanding the provisions of Article 31 of the Agreement.

Appendix "D"

Seasonal/Temporary Part-Time Employees Agreement

(1) The provisions of the Security Services Unit Agreement shall be applied as specified in this Agreement (excluding Articles 5.3, 9, 11, 12, 14, 16, 18, 20 and 24) to Seasonal and part-time temporary employees other than those in annual salaried positions insofar as they are applicable by their terms; such employees are hereinafter referred to as "employees."

(2) Employees who work at least 160 hours during the season (at least 20 days) will be entitled to additional compensation at their hourly rate, up to a maximum of eight hours, for time worked on each of the first three (3) days during their employment in any seasonal period (4/1 to 9/30 and 10/1 to 3/31) which are observed as holidays by the State. Such compensation should be paid retroactively upon completion of five weeks of work.

(3)(a) The State will continue to provide seasonal employees presently receiving uniforms with uniforms according to the policies in effect in the employing agencies.

(b) Temporary part-time employees in the title of Conservation Security Worker or Assistant Forest Ranger, who work more than 520 hours in a fiscal year, shall receive one-quarter of the uniform allowance provided in Article 20 of the Security Services Unit Agreement payable upon completion of the 520 hours of work once during the fiscal year.

(c) Temporary part-time employees in the title of Conservation Security Worker or Assistant Forest Ranger, who work more than 1,040 hours in a fiscal year shall be eligible to receive an additional one-quarter of the uniform allowance provided

in Article 20 of the Security Services Unit Agreement payable upon completion of the 1,040 hours of work once during the fiscal year.

(d) Effective April 1, 2012, the uniform allowance provided in Article 20 of \$1075 shall be applied to all employees in titles who are required to wear uniforms and will be paid on the same pro-rata basis as in 3(b) and (c). This uniform allowance will continue as a separate payment for those employees covered by the appendix.

(4) Employees who have completed at least six years of continuous service of six pay periods on a scheduled half-time or greater basis in each of those six years, shall be entitled to an exit interview with the appointing authority or designee following notice of involuntary separation. In such instances, the local union representative shall be notified of the involuntary separation, and may accompany the employee in the exit interview session.

(5)(a) Employees may purchase health insurance under the terms of the health insurance contracts in force during this Agreement. Such coverage is offered on a full pay basis (i.e., both the Employer and the employee share) through December 31, 2000 for the duration of their employment. Effective January 1, 2001, Seasonal employees will be eligible for health insurance at the employee premium share while they are on the payroll as follows: the employee must be expected to work at least six months and the employee must be employed on at least a half-time basis. Upon an employee leaving the payroll, if the employee is not off the payroll for more than six months, the employee is eligible for health insurance upon the return to work and will not be required to satisfy the six month minimum employment requirement.

(b) Employees who have completed at least six years of continuous service of six pay periods on a scheduled 40 hours a pay period or greater basis in each of those

six years and who are eligible for rehire, may continue their health insurance coverage on a full pay basis between seasons. Should an employee fail to return in the following season, health insurance coverage will be terminated.

(6) Seasonal employees who have been continuously employed on at least a forty hours per pay period basis, for 19 pay periods, shall be entitled to attendance rules coverage, in accordance with Civil Service Attendance Rules and the appropriate provisions of this negotiated Agreement. Employees not covered by the Attendance Rules and not eligible for Workers' Compensation leave provisions will be allowed leave with pay for injuries sustained in the line of duty. Use of such leave is to be held to a minimum and, in no event, is to exceed three days or 24 hours pay per year, whichever is less.

(7) Compensation

(a) The salary provisions of Article 11.2 of the Security Services Unit Agreement shall apply to all employees.

(b) The provisions of Article 11.9, Pre-Shift Briefings, shall be applicable to employees employed on a normal 35 to 40 hour week basis in the following titles: Park Ranger, Safety and Security Officer, Conservation Security Worker, Lake George Marine Officer 1, Lake George Marine Officer 2 and Assistant Forest Ranger.

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Re: Outside Police Agreement

Dear Mr. Rowe:

When a representative of any outside police or investigative agency other than representatives of the agency or department in which the employee is employed, seeks to interrogate, question or interview an on-duty employee in connection with an investigation, the employee is not under any compulsion or requirement as a condition of his employment to submit to such interrogation conducted at the work site by the representative of such outside police or investigative agency. Management will not seek or attempt to coerce or persuade any employee to submit to such interrogation conducted by the representatives of such outside police or investigative agency.

The provisions hereof are not applicable to interrogations of an employee by representatives of the agency or department in which the employee is employed or by any Commissions or bodies charged by the Mental Hygiene Law with the duty to conduct investigations.

Sincerely,

/s/ Gary Johnson
Director

Side letter

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Dear Mr. Rowe:

This is to confirm that the Employer intends to increase the Correction Officer Trainee rate consistent with the 2009-2016 salary increases for the Correction Officers in the Security Services Unit.

Sincerely,

Gary Johnson
Director

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Dear Mr. Rowe:

During negotiations between the State and NYSCOPBA for the Security Services Unit in June 2012, you mentioned that it is NYSCOPBA's desire that all temporary retirement benefits be extended as was done in the 2003-2007 negotiations.

While there presently are certain temporary retirement benefits provided for employees in the Security Services Unit, the subject of retirement is a prohibited subject of negotiations. While we did not negotiate nor discuss these matters in our current negotiations, pursuant to law, the existing temporary retirement benefits will continue until otherwise modified or revised through the legislative process.

Sincerely,

/s/ Gary Johnson
Director

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Re: Article 17, Travel

Dear Mr. Rowe:

This is to confirm our understanding on certain issues related to Article 17, Travel, as described below:

(1) Notification of change

In the event of any change in the rate of reimbursement, the Union shall be promptly furnished with a copy of such changes and the changes will also be posted for employee inspection and information.

(2) Incidentals

Parking, tolls, taxis, and similar expenses shall continue to be reimbursed in accordance with the Comptroller's Rules and Regulations.

(3) Reimbursement Methods

The provisions of Article 17 as they relate to reimbursement for lodging and meal expenses for authorized overnight travel, be they receipted or unreceipted, do not contemplate any change in the current method by which the Comptroller requires employees to compute expenses on travel vouchers. These methods are commonly known as "Method I" for unreceipted travel and "Method II" for receipted travel.

I trust the above is reflective of our understanding.

Sincerely,

/s/ Gary Johnson
Director

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Dear Mr. Rowe:

The State and NYSCOPBA recognize that in the course of performing their jobs, exposure to tuberculosis (TB) and the possibility of contracting active TB is a major concern for employees and their families.

The State and NYSCOPBA are committed to the ongoing exploration of a range of accommodations in those instances where an employee has contracted active TB. Such accommodations warranting further exploration may include development of reassignments to non-contact positions to limit the exposure of employees as medically necessary and discussion of the concept of redeployment to another State agency of such an employee when continued performance of job duties would place an employee "at risk."

Discussion, consideration and exploration will be undertaken by a statewide joint labor/management work group under the auspices of Article 22 of the Agreement. The mechanics of how such accommodations might be accomplished, contractual implications, and the process by which suitable alternate placement opportunities might be facilitated will be discussed. The parties will evaluate the legal, fiscal and operational ramifications of such a concept, and consider other supportive measures such as retraining and counseling beyond that which would otherwise be provided on an agency basis. Although the focus of discussions pertains primarily to TB, the parties will discuss other infectious diseases as well.

Of course, pro-active agency approaches such as education, the development of protocols, and the availability of proper equipment will remain a priority to help reduce the possibility of exposure.

Sincerely,

/s/ Gary Johnson
Director

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Dear Mr. Rowe:

This is to confirm our understanding regarding Article 5.3(e) of the Agreement. Specifically, each SUNY campus is considered a facility for the purposes of this section. Additionally, the word "region" applies only to those agencies which are not organized by facility.

Sincerely,

/s/ Gary Johnson
Director

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Dear Mr. Rowe:

To help ensure and encourage the physical fitness of members of the bargaining unit, the parties may discuss, on an agency or statewide labor/management level, the implementation of a pilot voluntary physical fitness program. Such discussions may include appropriate standards and incentives.

Sincerely,

/s/ Gary Johnson
Director

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Re: Standby On-Call Rosters

Dear Mr. Rowe:

This is to confirm the parties' understanding with respect to standby on-call rosters in the Security Services Unit.

Eligible employees in the State University of New York and the Office of Parks, Recreation and Historic Preservation who are required to be available for immediate recall and who must be prepared to return to duty within a limited period of time shall be listed on standby on-call assignment rosters. Assignments to such rosters shall be equitably rotated, insofar as it is possible to do so, among those employees who are eligible for overtime compensation under the definition contained in the Fair Labor Standards Act, qualified and normally required to perform the duties. The establishment of such rosters at a facility shall be subject to the authorization of the department or agency involved and the approval of the Director of the Budget.

An employee who is eligible to earn overtime under the definition contained in the Fair Labor Standards Act shall not be required to remain available for recall unless the employee's name appears on an approved recall roster. Such employee shall be paid an amount equal to 20 percent of the employee's daily rate of compensation (i.e., one-tenth of the bi-weekly rate of compensation and will include geographic, locational, inconvenience and shift pay as may be appropriate to the place or hours normally worked) for each eight hours or part thereof the employee is actually scheduled to

remain and remains available for recall pursuant to such roster. An eligible employee who is actually recalled to work from the roster will receive appropriate overtime or recall compensation as provided by the State/NYSCOPBA Agreement. Administration of such payments shall be in accordance with rates established by the Director of the Budget.

Sincerely,

/s/ Gary Johnson
Director

Mr. Donn Rowe
President
NYS Correctional Officers and
Police Benevolent Association, Inc.
102 Hackett Boulevard
Albany, New York 12209

Re: Step 2 Meetings

Dear Mr. Rowe,

The State and NYSCOPBA agree that Step 2 meetings are an important part of the labor-management relationship and that, under Article 7, Step 2 meetings are a necessary component of the grievance review process and will take place. Therefore, these meetings should be face-to-face and include an appropriate representative of the Commissioner of DOCCS from its Central Office as designated by the Commissioner and an appropriate union representative as designated by the NYSCOPBA President.

The parties also affirm that in order to make these meetings meaningful the parties must work cooperatively to establish basic rules for the conduct of these meetings that include, but are not limited to:

Meetings at the hub level that involve a discussion of pending grievances in the hub. Such meetings can and should occur at the facility level to discuss grievances from a specific facility as the need arises;

The frequency of these meetings;

A teleconferencing and/or videoconferencing process that provides for an appropriate number of these meetings to take place via teleconference and/or videoconference;

Provisions for the participation of a grievant at the Step 2 meeting, teleconference or videoconference;

Provision of information by both parties in advance of the Step 2 meeting, teleconference or videoconference to promote efficiency at the Step 2 and the potential for resolution prior to the actual meeting;

Provision for an agreement on when Step 2 meetings are not required so that the Employer may issue a decision without such meeting;

GOER and NYSCOPBA will meet in Executive labor-management to establish these basic rules with appropriate local and agency representative participation.

Sincerely,

/s/ Gary Johnson
Director