

STATE OF NEW YORK
PROFESSIONAL, SCIENTIFIC AND TECHNICAL
SERVICES UNIT

In the Matter of
PUBLIC EMPLOYEES FEDERATION, AFL-CIO
(All Affected PS&T Unit Members),

Grievants,

-and-

STATE OF NEW YORK (All Agencies),

Employer.

**STIPULATION
OF
SETTLEMENT
REGARDING
REMEDY**

OER File No.
2000-05-3301

**Stipulation Of Settlement Regarding Remedy:
Claim Procedure for Overtime Meal Allowances**

1. In accordance with the arbitration decision in the above-entitled matter, the changes in eligibility for overtime meal allowances that were made in Article 38, Overtime Meal Allowance, of the 1999-2003 Agreement between the State of New York (hereinafter "State") and the Public Employees Federation (hereinafter "PEF") have been deemed effective April 2, 1999. The two changes in eligibility for overtime meal allowances were:

- (a) The overtime meal allowance was extended to overtime eligible employees in the Professional, Scientific and Technical Services Unit (hereinafter "PS&T Unit");
and
- (b) Employees in the PS&T Unit became eligible for a second overtime meal allowance when they worked six (6) hours overtime on a regular working day or nine (9) hours overtime on other than a regular working day.

2. Prior to the changes set forth in Paragraph 1 above, the overtime meal allowance language had been unchanged since the 1979 -1982 Agreement (except when eligibility for part-timers was added in the 1988 -1991 Agreement) and provided for one (1) overtime meal allowance for overtime ineligible employees who worked at least three (3) hours overtime on a regular working day or at least six (6) hours overtime on other than a regular working day.

3. Pursuant to this Stipulation of Settlement Regarding Remedy, overtime meal allowance payments will be made to an employee who became eligible for an overtime meal allowance(s) based on the changes in eligibility as set forth in paragraph one (1) above, for the following time periods:

(a) April 2, 1999 through and including August 9, 2000 for employees on the Institution payroll; and

(b) April 2, 1999 through and including August 16, 2000 for employees on the Administration payroll.

4. The State and PEF agree to the following procedure for processing claims from PS&T Unit employees for overtime meal allowance payments for the period described in Paragraph 3 above:

(a) On or before close of business Friday, February 13, 2004, each agency will distribute to all their PS&T Unit employees the following:

1) A copy of the *Overtime Meal Allowance Claim Procedure* that employees must follow to submit claim(s) for payment of overtime meal allowance(s) (attached hereto as Attachment A);

and

2) A copy of the *Overtime Meal Allowance Claim Form* (attached hereto as Attachment B).

(b) On or before close of business Friday, April 16, 2004, PS&T Unit employees must submit claims for payment for overtime meal allowance(s), utilizing the *Overtime Meal Allowance Claim Form* with the required documentation attached, to their agency designee. The required documentation to establish eligibility for an overtime meal allowance is the employee's time and attendance record for the payroll period in which the overtime meal allowance is claimed.

(c) However, where the employee's time and attendance record does not show actual hours worked or where the time and attendance record is no longer available, the agency, in its discretion, may accept other official agency record(s) that show hours worked by an employee on a particular day (for example, travel vouchers) to determine eligibility for overtime meal allowance(s).

(d) On or before close of business Friday, May 14, 2004, agencies will review the claims and documentation submitted, as described in paragraphs (b) and (c) above, to confirm an employee's eligibility for overtime meal allowance(s). Claims establishing an employee's eligibility for overtime meal allowances, as described in the *Overtime Meal Allowance Claim Procedure* (Attachment A) will be approved by the agency for payment.

(e) For all approved claims for overtime meal allowances, agencies will submit documentation to the Payroll Unit of the Office of the State Comptroller (OSC) by pay period ending May 19, 2004 for payment in check dated June 2, 2004 for employees on the Administration payroll, and by pay period ending May 26, 2004 for payment in check dated June 10, 2004 for employees on the Institution payroll.

5. The State and PEF agree to the following procedure for review of overtime meal allowance claims submitted in accordance with Paragraph 4 above:

(a) On or before close of business Friday, May 14, 2004, the employee's agency will notify an employee in writing, of the agency's denial, in whole or in part, of an employee's claim. The agency's writing shall identify those portions of the claim that have been denied and briefly describe the reasons for the denial.

(b) Any PS&T Unit member who is aggrieved by an agency's denial, in whole or in part, of an overtime meal allowance claim, may submit that claim to their PEF Field Representative for review by PEF. The PEF Field Representative may submit to the agency designee any disputed claims for attempted resolution of the matter at the agency level on or before close of business Friday, July 9, 2004. Agencies should review, attempt to resolve, and notify the Field Representative in writing of the disposition of any

disapproved claims on or before close of business Friday, August 6, 2004.

(c) If the matter cannot be resolved at the agency level, PEF Contract Administration may submit the disapproved claim to the Governor's Office of Employee Relations (hereinafter "GOER") on or before close of business Friday, September 3, 2004. GOER will review, attempt to resolve, and notify PEF Contract Administration in writing of the disposition of these disapproved claims on or before close of business Friday, October 1, 2004. The agency will be directed to process the payment of any claims approved through the process described in this Paragraph 5.

(d) In the event that, after following the review procedure set forth above, the parties' dispute over a disapproved claim cannot be resolved to the satisfaction of PEF and/or GOER, at the option of either party, the matter can be submitted on or before close of business Friday, October 29, 2004 to Arbitrator Tia Denenberg for review and resolution, pursuant to her reserved jurisdiction in the above-entitled matter.

6. The Claim Procedure for Overtime Meal Allowances set forth in this Stipulation of Settlement Regarding Remedy is strictly limited to providing a process for payment to employees who became eligible for overtime meal allowances based on the two changes in Article 38 of the 1999-2003 Agreement. Any other issue regarding payment of overtime meal allowances must be handled through the contract grievance procedure.

7. This Stipulation of Settlement Regarding Remedy constitutes the entire settlement between the parties regarding payment for overtime meal allowances based on Arbitrator Tia Denenberg's decision concerning the effective date of the changes in Article 38 of the 1999-2003 Agreement. Furthermore, if there are disputes regarding the implementation of this Stipulation of Settlement and the Attachments hereto, the parties agree to meet and discuss resolution thereof. But, in any event, any claimed disputes regarding this Stipulation are not grievable in accordance with Article 34 of the Agreement between the parties. Except as provided in paragraph 5 above, all claims arising from an alleged breach of this stipulation of settlement are subject to judicial review.

8. This Stipulation of Settlement Regarding Remedy shall not serve as precedent for settlement of any future grievances, applications, petitions, or cases in any administrative, State, Federal or other forum.

For PEF

For the State

Elizabeth S. Hough
Associate Counsel
Contract Administration Department
Public Employees Federation

Rebecca L. Caudle
Assistant Director
Governor's Office of
Employee Relations

Dated: _____

Dated: _____