

**New York State
Public Employess Federation**



2014 Annual Report

To The Delegates

36th Annual Convention
Niagara Falls, NY Sept. 28- Oct 1, 2014



**New York State Public Employees Federation
2014 Annual Report to the Delegates**

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Officers' Report

Hello, delegates. PEF's Annual report highlights many of the important accomplishments and activities of the Kent/Garcia administration and in the pages that follow you can read about the highlights of the important union business we accomplished since we met at our last convention.

Over the past two years, the Kent/Garcia administration has taken steps to turn around the negative image of unionized workers, to make our members feel good again about being a part of PEF and about the work they do. Now, it's time to work on building unity internally. Unity is an absolute necessity if we want PEF to grow, increase PEF's political

power and revitalize our union as we enter into upcoming contract negotiations. Solidarity is our strength. Everybody knows that there is strength in unity and that separation brings only weakness and confusion, demoralization and defeat. With a strategy based on solidarity we can battle any Goliath.

We faced many serious challenges over the past year. Now, with your help we are readying for upcoming budget fights and of course, the onset of contract negotiations. Moving forward we will continue the successful work we've done so far to help make our union stronger:

- Continue our coalition with other

unions to support each other's goals

- Build progressive movements with community organizations that affect us as workers, citizens and taxpayers of New York State and join with them where we have common concerns
- Encourage and engage our members to be aware of PEF union activities and become involved and stay involved

Now more than ever, we must do all we can to stand strong and united with one message, one voice - uniting together to fight for the contract we deserve!



Susan M. Kent
President



Carlos J. Garcia
Secretary-Treasurer



Wayne Bayer
Vice President



Wayne Spence
Vice President



Barbara Ulmer
Vice President

Secretary-Treasurer – Finance/Divisions

The Finance Department continues to provide information and support to the PEF leaders and membership through reporting, training, communicating, and processing of requests.

This year, we have worked on upgrading our accounting systems to better communicate with our divisions, regions and staff. More consistent reporting to our divisions, regions, and departments will allow them to better plan and control their

expenditures throughout the year. We are working with the Budget Committee and projecting PEF's future financial positions and with the trustees as they continue to review and advise on the different processes.

The biggest responsibility the Finance Department has is the day-to-day activity of processing invoices, check requests and member vouchers in addition to all the federal and state required reporting. Currently, we process close to 1,000 checks per

month as well as providing financial support and training for the 12 regions and 230 divisions. This is in addition to the filing of various required reports with different federal and state agencies throughout the year and the multiple audits that are completed by an independent outside firm annually



N.Y.S. Public Employees Federation and Subsidiaries

Consolidated Statements of Financial Position

Audited – March 31, 2014

ASSETS		LIABILITIES AND NET ASSETS	
Current Assets		Current Liabilities	
PEF Cash	4,622,650	Accounts Payable	3,273,322
Legislative Fund Cash	251,249	Accrued Liabilities	<u>2,977,609</u>
Accounts Receivable	2,966,198	Total Current Liabilities	6,250,931
Prepaid Expenses	<u>327,241</u>		
Total Current Assets	8,167,338	Long-Term Liabilities	
		Post Retirement	<u>7,689,773</u>
Fixed Assets		Total Long Term Liabilities	<u>7,689,773</u>
Land & Building	2,012,103	Total Liabilities	13,940,704
Furn/Fix/Computers/Autos	3,445,179		
Leasehold Improvements	1,324,842	Net Assets	
Less Accum Deprec/Amoritz	<u>(5,811,092)</u>	Unrestricted	(794,244)
Total Fixed Assets	971,032	Unrestricted – Board Designated	4,806,984
		Temp. Restricted Net Assets	123,813
Long Term Assets		Total Net Assets	<u>4,136,553</u>
Other Assets	<u>70,753</u>	TOTAL LIABILITIES & NET ASSETS	<u>18,077,257</u>
Total Long Term Assets	70,753		
Investment Securities	<u>8,868,134</u>		
TOTAL ASSETS	<u>18,077,257</u>		

N.Y.S. Public Employees Federation and Subsidiaries

Consolidated Statements of Activities

Audited – March 31, 2014

Income

Membership Dues Income	32,212,048
Agency Fee Income	1,453,926
Interest Income	302,927
Rental Income	37,545
Other Misc. Income	1,945,512
Unrealized Gain/(Loss)	<u>298,788</u>
Total Income	<u>36,250,746</u>

Expenses

Direct Services

Union Leave Expense	423,108
Staff Salary Expense	9,710,994
Payroll Tax Expense	886,836
Benefit Expense	5,393,914
Auto Allowance & Expense	278,090
Staff Travel & Transportation	266,501
Member Meeting Expenses	2,003,347
State EOL Expense	<u>861,632</u>
 Total Direct Services	 <u>19,824,422</u>

Operating Expenses

Reproduction	85,043
Printing Expense	271,900
Postage Expense	360,829
Office Supply Expense	140,523
Telephone/Communication	249,018
Rent Expense (includes Real Estate Taxes)	917,485
Utility Expense	119,122
Janitorial & Security Expenses	83,838
Maintenance & Repair	97,950
Equipment Rental	10,584
Minor Equipment Purchases	20,051
Computer Fees	81,346
Advertising Expense	837,917
Photographic Supply	938
Books & Reference Materials	128,040
Insurance Expense	90,632
Temporary Hire	45,563
Steno/Transcripts/Court	30,162
Miscellaneous Sundry	<u>9,031</u>
 Total Operating Expense	 <u>3,579,972</u>

Admin/Organizational Expenses

Scholarship Fund Expense	40,000
Arbitration Expense	212,064
Contributions	54,851
Affiliation Fees	281,980
Legislative Expense	417,000
Divisional Fund	1,215,330
Per Capita Fees	9,191,447
Professional Fees	468,355
Depreciation/Amortization	<u>232,269</u>
 Total Admin/Organiz. Exp.	 <u>12,113,296</u>

Total Expenditures **35,517,690**

Net Income/(Deficit) **733,056**

Membership Information Systems

Department Overview

The Membership Information Systems Department provides a crucial link connecting PEF's 54,000 members and staff. MIS provides this through the support and delivery of Internet services, data services, PC and server services, networking, and telecommunications. MIS also provides IT services for the PEF Membership Benefits Program.

Computers, Hardware, and Software

Maintaining, monitoring, and backing up of PEF's servers is crucial for the day-to-day operations of the organization. We continually test not only for security, but for performance, reliability, resiliency, and redundancy.

Data Services

Our custom-built Membership Information Database Application System (MIDAS) continues to expand its role within PEF. MIS is continuously enhancing the features and functions of the system to empower staff to better service members. MIS continues to provide membership information via paper/electronic reports, labels, and electronic look-up formats. New electronic reports have been developed to replace paper and deprecated reports of the past.

Web Server and Application Development

MIS maintains web servers and develops web-based applications that allow PEF to securely engage with the membership.

Accomplishments and Improvements in 2013-2014

New Website

In December 2013, PEF launched a new website. Our website is the most forward facing tool we have to communicate with our members,



elected officials and the public. What we now have is a dynamic platform on which we have and will continue to build upon to better serve our membership. The site features a secure members section which displays your division and region. You can find the name and contact information about your individual, E-Board representative, council leader, region coordinator and PEF Field Representative.

Desktop Virtualization and Security Enhancements

Building off the success of last year's server virtualization, PEF is moving forward with implementing a virtualized desktop environment of all statewide PEF staff. This allows for centralized management, faster statewide rollouts of upgraded software and security patches and replaces

hundreds of desktops with lower-power thin-clients.

MIS has also deployed additional email and network virtualized security appliances. These enhancements have reduced malicious emails, allow for encrypted communications, and protect even mobile devices from malware and other infections.

Looking forward....

During the next year, the IT strategic plan will be reviewed and updated; the virtualized server environment will be built-out to take advantage of the new infrastructure; disaster recovery will be expanded; further enhancements to MIDAS will be implemented and web applications will be expanded to better serve the membership.

Executive Board and Convention Coordination

The Office of Executive Board and Convention Coordination provide the PEF membership, elected delegates and officers a hospitable environment conducive to the business of PEF. Under the direction of the Secretary-Treasurer, the office strives to provide assembly and meeting space fulfilling the highest needs of the body, with all considerations given to the location, accommodations, travel and the convenience of all participants.

Our goal is to secure convention locations three years in advance; recognizing each convention and location has particular needs. Additionally, we work to ensure to the extent possible that travel and logistical support for each convention meets the needs of delegates.

The role of the Executive Board/conference coordinator is to plan and provide support for the convention, Executive Board meetings and various leadership programs, events and receptions throughout the year. Responsibilities include: development and distribution of RFP's, contract review and negotiation, site selection, creation and management of online registration sites, secure overnight room blocks and meeting space assignments, food & beverage selection, audio/visual requirements, on-site logistics and liaison to the meeting facilities, hotels and suppliers. The coordinator works

closely with the executive assistant to the Secretary-Treasurer to secure overnight reservations and process all requests for employee-organizational leave (EOL).

Convention site selection starts with an RFP to potential locations. After the proposals are received, the convention chair and the conference coordinator conduct site inspections at all locations which meet the general requirements for the event. Information is collected regarding meeting space, overnight accommodations, transportation and financial considerations. A comparison is developed and an overview of each proposal is presented to the Executive Board. The locations are then determined by board vote.

The following Convention location has been finalized:
October 18-21, 2015 - The Oncenter, Syracuse, NY

The Executive Board voted in May to determine the locations for the 2016 - 2018 Convention sites. The following dates and locations were selected, but have not yet been contracted. They are considered tentative at this time:

*September 25-28, 2016 – Rochester
Riverside Convention Center, Rochester, NY*

*October 22-25, 2017 – Lake Placid
Conference Center, Lake Placid, NY*

*October 21-24, 2018 – Lake Placid
Conference Center, Lake Placid, NY*

The convention is a collective effort by the convention chair, convention committee, conference coordinator and staff from all departments within PEF. Some of the many responsibilities include: conducting elections to seat delegates and alternates, production of delegate materials and publications, arranging for release time, contracting suppliers, coordinating with production and decorator staff for audio/visual and electronic requirements, preparation of educational programs, vendor area planning and set-up, materials handling and transportation arrangements both local and statewide.

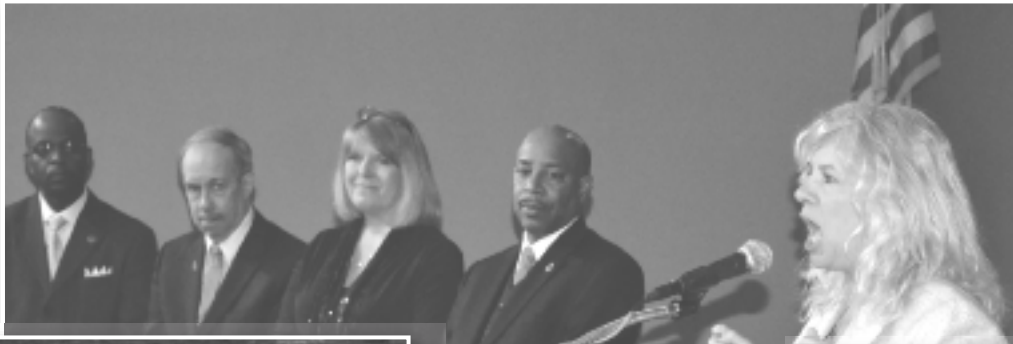
During the event, PEF staff registers delegates, assists with housing issues and work with convention center and hotel staff to set up the plenary, meeting rooms and vendor area. Committee members work in conjunction with PEF staff to assist with transportation, registration, event management and volunteer coordination.



Executive Offices

PEF's Executive Offices consist of the following departments: Civil Service Enforcement / Research, Education and Training and Health and Safety, Human Resources, Office of General Counsel,

Legislative, Public Relations and Purchasing/Facilities Management. These departments are responsible for carrying out the many directives and initiatives of the president.



Civil Service Enforcement/Research

In collaboration with PEF leaders and staff, the department continued regular monitoring of the activities of the NYS Department of Civil Service (DCS) and the various state appointing authorities, which is a significant part of PEF's ongoing efforts to enforce the merit system.

Most of the inquiries formally investigated by the department involved the following issues: salary determinations, reclassifications/reallocations, civil service exams, eligible lists, canvassing violations, provisional appointments, transfers, jurisdictional classification, contracting-out, retirement, reductions in force, probationary terminations and other quick questions from Field and other PEF staff, Executive Board members, council leaders and statewide L/M chairs.

Notable Civil Service Enforcement/Research Department actions undertaken during this reporting period:

Despite PEF's objections, the Civil Service Commission upheld the Division of Classification and Compensation's decision denying PEF's request that the title structure change of the facility parole officer and correction counselor titles into the new offender rehabilitation coordinator series in DOCCS be rescinded. The PEF Legal Department staff filed an Article 78 proceeding challenging the Commission's decision on October 15, 2013. As of the filing of this report, the case was still pending before the court.

The department continued to coordinate with DOCCS PEF leaders, field services, and legislative staff to monitor job security issues resulting from the announcement and the anticipated July 26, 2014 closures of four facilities: Monterey Shock, Butler,

Chateaugay, and Mt. McGregor.

We continued to work with PEF leadership and field services to closely monitor job security issues and respond to inquiries about the status of the implementation of the Close to Home initiative that was signed into law by Gov. Andrew M. Cuomo on March 30, 2012. The Close to Home law focuses on reducing the placement of troubled youths in non-secure and limited-secure facilities operated by the state Office of Children and Family Services (OCFS) by transferring responsibility to the New York City Administration for Children's Services (ACS). Due to numerous problems that resulted from the non-secure phase, including many youth going absent without leave (AWOL), we are closely monitoring the status of the limited-secure phase, which has been repeatedly delayed.

In conjunction with PEF leaders and field staff, the department monitored the Civil Service Law §70(2) Transfer of Function of sixty-two (62) PEF members back to the Department of Financial Services (DFS) from the Office of Information Technology Services (OITS) effective July 17, 2014.

In collaboration with OPWDD Statewide L/M Committee members and field services and legislative staff, we continued to assist in monitoring the development and implementation of the federal Centers for Medicare & Medicaid Services (CMS) Waiver program, including the ongoing review of the job titles likely to be impacted as a result of OPWDD's transition to a new managed care system.

Department staff continued to coordinate with OPWDD PEF leaders as well as field services, and legislative staff, to assist in monitoring the December 31, 2013 Finger Lakes and Taconic DDSO closures. We have also

been vigilant about monitoring the additional closures that were targeted to occur over a three year period between March 2015 and March 2017, which both the legislature and Gov. Cuomo have since agreed to delay with some potential exceptions.

In coordination with OPWDD, PEF leaders as well as PEF Contract Administration and field service staff, we provided intense efforts to ensure job security as a result of the inadequate number of community positions available for our members impacted by the December 31, 2013 Taconic DDSO closure.

Department staff continued to collaborate with PEF leaders and PEF contract administration, legal, and legislative staff to oppose Gov. Cuomo's attempt to privatize state services that would potentially negatively impact PEF members in OMH, OPWDD, and OASAS, particularly their job security.

We continued to collaborate with OMH and OPWDD Statewide L/M committee members, PEF contract administration and field services staff to assist in discussions to develop statewide reassignment agreements in each respective agency.

Department staff coordinated efforts with SUNY Downstate, PEF leaders, contract administration, field services, and legal department staff to advocate on behalf of four SUNY Downstate members who received layoff notices. The layoff notices were subsequently rescinded. We have continued to assist PEF leadership in conjunction with PEF's legislative and field staff to monitor the job security issues of our members at SUNY Downstate Medical Center, including any potential negative impact of the Long Island College

Hospital (LICH) campus closure or debt.

Our department has continued to respond to numerous members' concerns and correspond with the Department of Civil Service regarding the confusion that occurred due to the suspension of the DOT continuous recruitment civil engineer (CE) 2 promotion exam. We wrote to the Department of Civil Service in January 2014 seeking once again to get a group of impacted members back on the list, and then in March of 2014 to find out when the eligible list for the promotional exam held on January 25, 2014, would be established, and how it would be used with the existing continuous recruitment CE 2 eligible list that is due to expire on October 10, 2014. The promotion eligible list was established on May 12, 2014 and we were informed that DOT will be able to make appointments from both eligible lists until October 10, 2014.

We attended budget briefings and collaborated with PEF leaders and PEF contract administration, legal, and legislative staff to analyze state budget proposals and proposed legislation to assess their potential impact on PEF members.

The department researched and analyzed the Social Work Licensure Law, which was most recently amended as part of the SFY 2013-2014 budget to extend the exemption from mandatory licensure for all social work and social work related titles in state government for an additional three years until July 2016. We recommended to the Executive Board in May 2014 that PEF should continue to support the licensure exemption contained in this bill because 3,778 PEF members could lose their jobs if the exemption of seven state agencies (OMH, OPWDD, OASAS, DOCCS, DOH, OFA and OCFS) was lifted.

We participated in new council leader

training and provided handouts and information to be included in the participant packet.

In response to a resolution that was adopted by the 2013 PEF delegates, we issued a memo to PEF leaders to assist them with identifying and submitting potential Civil Service merit system issues for further investigation.

The Civil Service Commission sent us a copy of a request from the Office of General Services dated March 26, 2014 to establish and classify in the non-competitive jurisdictional class 230 positions of Empire Fellow for a temporary 24-month period. We sent this request to Executive Board members and council leaders to share with any interest PEF members for their comments and recommendations. We then wrote a letter to the Civil Service Commission dated April 7, 2014, objecting to this request, and appeared before the commission when it was up for consideration at the April meeting. Despite PEF's written and oral objections the Civil Service Commission approved this request at its April meeting. PEF President Susan M. Kent also wrote opposing this request in June and requested reconsideration; we are awaiting a response.

Department staff analyzed and provided comments in response to 2014 proposed PEF convention resolutions.

We provided technical subject matter information and assistance to PEF Training & Education/Health & Safety Departments for probation E-Learning course, which is now available on the PEF website.

On March 4, 2014, we advised PEF leaders regarding the briefing we received about the Job Analysis Questionnaire to be distributed by Civil Service to all Grade 23 – M-6 Information Technology incumbents. The purpose of this questionnaire was to gather information about the

activities and tasks performed as it is important that Civil Service conduct a thorough job analysis before the development of any future examination plans for IT related titles.

We wrote to the Department of Civil Service in April of 2014 regarding an apparent circumvention of an eligible list for the position of tax law judge within the Division of Tax Appeals (DTA). It was our contention that the agency improperly added an additional qualification to the minimum qualifications which resulted in only one individual being qualified for promotion. We received a response from the Department of Civil Service in June that stated the appointment of the nominee was appropriate within the guidelines of Civil Service Law, Rules, and Regulations. We subsequently appealed this decision to the Civil Service Commission on June 20, 2014, and have also requested some relevant information regarding this issue through the Freedom of Information Law (FOIL).

Our department continued to facilitate members and staff access to Career Mobility Office (CMO) information and services.

The department continued to attend and monitor NYS Civil Service Commission meetings as well as to provide technical information and assistance to members in processing and presenting Civil Service Commission appeals.

We continued staff support to the Jeff Satz Statewide Civil Service Committee, the Career Mobility Advisory Committee, the Statewide Labor/Management Advisory Committee, various statewide Labor/Management Committees, and the Information Technology Committee.

Education and Training Health & Safety

The PEF Training, Education, Health and Safety Department works together to provide quality services to PEF members in a variety of ways.

Education & Training staff develop and deliver related classroom and online courses and conferences, broker educational opportunities and provide technical assistance and needs assessments. The department is responsible for working with PEF's elected leaders, members and staff to assess professional development needs and to make available opportunities and resources to enhance knowledge, skills and abilities around:

- Understanding and representing PEF member's contractual and legal rights;
- Leading and implementing the initiatives, policies and procedures adopted by the union;
- Advocating to protect and enhance members' rights and benefits;
- Enhancing job performance skills and career mobility; maintaining professional licensure and accreditation;
- Developing functional labor/management teams;

PEF Health & Safety staff work with elected leaders, H&S committees and members on a wide variety of occupational safety and health initiatives. H&S staff work to:

- Provide service, information, technical assistance, research, and referral on health and safety matters;

- Conduct risk assessments and recommend control measures for safer worksites;
- Ensure that employers comply with all applicable federal, state, and local health and safety standards and laws;
- Enhance skills, knowledge, and awareness through training and education;
- Develop initiatives to improve working conditions of the membership;



- Provide support and technical assistance to Labor/Management Health and Safety Committees to proactively address safety issues in the workplace;
- Advocate for improvements to occupational health and safety through legislation and political action;
- Build the union by encouraging PEF members to take an active role in union activities;

Achievements

Training and Education staff created and delivered online E-Learning courses including "Basic Probation Issues," "The Art of Communication" and "Organized

Labor." These courses may be found on the PEF website under the Training/Education tab, "Training Center." The department is currently in the development stages of a new online training entitled: "An Orientation to PEF." This course will be designed in short modules, so members can quickly access the information they need. Some of the modules that will be included are: PEF departments, PEF positions (steward, council leader, etc.), PEF documents, PEF committees, among many other modules. It is anticipated that several videos and interactive segments will be included in this exciting new project.

Training & Education Staff coordinated the logistics and presented workshops at:

- New Council Leader Trainings;
- Individual Agency Labor/Management Trainings;
- Labor/Management Advisory;
- Regional Leadership Conferences including Region 9 in October, 2013 in Ellenville, Region 11 in March, 2014 in Calicoon, Region 12 in Long Island in April, 2014 and Region 10 in Rye Brook in November 2013 and June of 2014;
- Statewide DOCCS Labor/Management training held in Lake Placid in May, 2014;
- Membership Meetings throughout Region 9 in Spring, 2014;
- PEF Retirees Statewide Conference in Syracuse in July, 2014;

Health & Safety staff coordinated and/or delivered 95 training sessions for over 2,000 total participants (1,700 of which were directly trained by Health & Safety staff) on a wide variety of occupational safety and health topics since the last convention. Trainings were conducted at various locations and events including regional conferences, new council leader training, steward training, various training conferences, training at agency locations, etc. A one-day conference for agency level Health & Safety Committee labor and management chairs was held in the spring. New training curricula, including Conducting Risk Assessments and Evaluating Your Workplace Violence Program were delivered and received favorable reviews.

PEF leaders and Health & Safety staff were also involved in lobbying for passage of the Safe Patient Handling legislation. PEF also participates in the Zero Lift Task Force, made up of various unions and special interest groups interested in protecting the health of workers involved in patient handling and lifting activities.

Deliverables Under Article 15 of the Contract

Educational opportunities are funded through Article 15 of the contract. Staff continues to represent PEF members’ needs at the joint PEF/GOER Professional Development Committee where educational needs are discussed and classes under the Public Service Workshop Program (PSWP) are developed for delivery. Two committee PEF members are appointed by PEF President Susan M. Kent to serve as voting members of this committee.

Workshop Seminar Reimbursement (WSR) Program, Nurses’ Enhanced WSR and the Certification and Licensure Exam Fee

Reimbursement (CLEFR) programs are available for members of the PS&T unit to utilize. We have implemented leadership courses for GR 18 and above: the Leadership Development Program will be offered twice. A Nurse Leadership Program is under development and will be offered in the near future.

Activates of the Article 18 and 13 Committees

The Article 18 Committee and the Article 13 Committee are both joint labor and management committees that meet to discuss issues related to health and safety of PEF members. Both committees have members appointed by the PEF president.

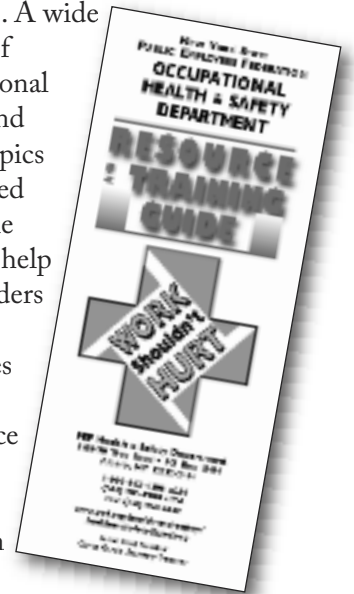
The goal of the Article 18 committee is to: discuss and resolve issues that have not been resolved at agency-level meetings, to develop training and educational opportunities for the membership and management, to discuss and approve funding for specially requested programs under the Safety and Health Initiatives Program (SHIP) grants, and to evaluate current trends in worker injury and to recommend changes to agencies, to assist in the development of a bi-annual Health and Safety Conference and Conferences for agency leaders. The Article 18 Committee, led by Committee Chair Rocco Brindisi, and PEF H&S Staff continue to work with elected leaders and members to procure SHIP grants to fund various occupational safety and health programs. The committee is also working with department staff to plan the next Health & Safety Conference scheduled for April 7-8, 2015. Details will be forthcoming.

The Article 13 Committee, led by committee chair Angel Cook, meets with Department of Civil Service and GOER representatives to address workers compensation issues. Topics discussed include the amendment/

reissuing of the Workers’ Compensation pamphlet, joint training for agency personnel officers and union leaders, and the Civil Service Annual Report on state agency workers’ compensation performance. Cook and department staff are also involved in reviewing and commenting on the proposed Workers Compensation Board’s Business Process Re-Engineering project.

Grant Funding

The department receives funding from the state Department of Labor Hazard Abatement Board (HAB) to conduct occupational safety and health activities and training. PEF has been successful in obtaining HAB grants through a competitive process for more than 20 consecutive years. PEF was recently awarded a contract for \$180,055 for August 1, 2014 – July 31, 2015. A wide variety of occupational health and safety topics are offered under the grant to help PEF leaders and advocates fight for workplace health and safety. In addition to PEF members, trainings are open to other unions and M/C employees. Contact the department to schedule one for your agency/work location.



Human Resources

The Office of Human Resources operates under the direction of the Executive Director. The department is responsible for managing the personnel functions of recruitment and selection, job analysis and design, labor relations, and compensation and benefits. The office is staffed by two Human Resource Administrators, one of whom focuses on recruiting and labor relations related activity while the other focuses on benefit administration related activities.

Of the approximately 150 staff at headquarters and in regional offices, one third are management-confidential and two thirds are represented by the United Steelworkers, Local 9265 (USW). This includes the staff of our union and the Membership Benefits Program.

Human Resources staff enforces the collective bargaining agreement for PEF as the employer and ensures compliance with the agreement and with staff policies and procedures. All aspects of insurance coverage for staff, including long term disability, term life, New York state disability and workers' compensation, unemployment insurance and related benefits are administered by the Office of Human Resources. Human Resources staff also manages the PEF Healthcare Plan which provides health, prescription drug, dental and vision care benefits for PEF staff. Additionally, the department administers all other benefits including tuition reimbursement, staff development, and the 401K program.

Human Resources also prepares and updates job descriptions for the various positions/job titles of PEF staff, negotiates the salary grade assigned to each title, follows up on probationary reports, and prepares and maintains the paper work for all personnel and payroll changes. Staff represents PEF at all quarterly Labor-Management, Career Mobility, and Joint Health Benefits Committee meetings with USW. In



addition, the department participates in quarterly Health and Safety meetings with USW, Training and EAP committees, processes staff contract grievances, disciplinary actions and maintain all associated records.

Human Resources staff arranges for temporary services at headquarters, the Legislative Office, and the 12 field service offices for permanent employees on leave and in short-term work overload situations. The headquarters telephone and regional office lists are updated regularly. Recently a tentative agreement was reached with the United Steelworkers to succeed the contract that expired June 30th,



2011. However, it should be noted the USW/PEF agreement contains an evergreen clause. The expired contract remains in full force and effect until a new agreement is ratified.

The Executive Director serves as PEF's chief spokesperson in these negotiations. Other members of the PEF team include Ed Aluck, Deputy General Counsel; Connie Fedden, Membership Benefits Program Financial Executive; Maureen Kellman, Trustee; Valarie O'Dell, Director of Finance; and, Human Resource Administrators Jackie Primo and Jennifer Tropiano.

Health Benefits

The department is responsible for administering the health insurance plan for staff and eligible retirees. The Executive Director serves as the health plan administrator. The staff plan is self-insured. We utilize third party administrators to process claims for health insurance, prescription drugs and dental and vision benefits. We also are monitoring the impact of the Affordable Care Act on staff coverage. The PEF/USW Joint Committee on Health Benefits meets quarterly to discuss issues of mutual concern.

Office of General Counsel

The PEF Office of General Counsel (“OGC”) is the law office of the union and provides a wide range of legal services to PEF and individual PEF members.

I. OVERVIEW

The primary legal service OGC provides to PEF members is legal representation to those members who face disciplinary termination charges under Article 33 of the PEF/State contract.

OGC also litigates in State and Federal Court on a wide variety of employment related issues arising under state and federal employment laws, and appears before administrative agencies such as the Public Employment Relations Board. Its cases involve constitutional rights, the Civil Service Law (“CSL”), the Taylor Law, challenges to out-of-title decisions made by the Governor’s Office of Employee Relations, Freedom of Information Law (“FOIL”) issues, challenges to agency regulations, and due process rights of our members, to name a few. OGC also defends PEF in actions brought against it as an organization.

Further, OGC provides legal advice and opinions to other PEF departments and the PEF elected leadership. In addition, it advises union officers and staff on union governance issues, such as convention resolutions, Executive Board policy and compliance with federal union election laws. It also monitors and issues general legal advisories and guidance regarding new legislation, important court decisions and significant legal trends in the labor and employment law arena. Finally, OGC advises and represents PEF in its role as a unionized employer.

II. NOTEWORTHY DECISIONS AND ACTIONS

By the numbers, in the last year, we had approximately 65 requests for legal opinions and opened 172 new litigation files.

This has been a particularly active and successful year with respect to PERB issues. Most significantly, PERB turned back GOER’s attempt to void their own settlement agreement with PEF that placed 250 positions in the PEF bargaining unit. Unfortunately, GOER is continuing its efforts to void this agreement and recently filed a lawsuit in State Supreme Court challenging PERB’s decision. Further, we

received a favorable decision from the Appellate Division in a case involving a 25% reduction in the wages of seasonal track employees of the Racing and Wagering Board, now NYS Gaming Commission. In this case, PERB applied its “duty satisfaction defense” and found that the State could unilaterally reduce wages in this situation, and the State Supreme Court agreed. However, on appeal, the Third Department reversed and found that PERB applied its duty satisfaction test too broadly. This case is most likely headed to the Court of Appeals. We also have cases pending at PERB which challenge the increase in the civil service exam fee, the statewide change in the vehicle use policy and the Justice Center Code of Conduct to name a few.

Our federal lawsuit challenging the increase in retiree health insurance premiums continues to move through various procedural obstacles set up by the State. We have also been very active in challenging both a DOH and OMH regulation requiring that a health care provider get a flu vaccination or wear a mask when in areas where patients might be. However, at this point, we have not been successful in annulling the regulation, but are continuing to fight via an appeal to the Third Department and through PERB charges.

With respect to other significant litigation, we have appealed the decision regarding the limit on overtime pay for hours worked during Hurricane Sandy, and we believe a decision in our case challenging the merger of the Facility Parole Officer title and Correction Counselor title into the Offender Rehabilitation Counselor is imminent. Further, in a case involving administrative credentialing proceedings before OASAS, we achieved a result which increases our members’ due process rights in such proceedings. We have also been involved as amicus in two Court cases that could affect our retiree health insurance case and privacy of our members. We continue to litigate out-of-title cases and achieved a favorable settlement in one such case.

Finally, we continue to handle a high volume of disciplinary termination cases and process those cases expeditiously and overall have achieved very positive results for our members.

Below is more information regarding the cases discussed as well as a full report of the significant activities and other cases

handled by the Office of General Counsel during this past year.

A. PERB Cases

Unit Placement Petition

On March 27, 2013, PERB’s Director issued an interim decision, based on an agreement between PEF and the State, placing about 250 M/C positions in the PS&T Unit. The Director’s Interim Decision was based on a settlement agreement negotiated by PEF Contract Administration and GOER in March 2013, in which the parties specifically agreed that 250 formerly M/C employees should be placed in the PS&T Unit.

Subsequently, GOER tried to void that settlement agreement and the Interim Decision because GOER claimed it had not properly advised the affected agencies of the standard for determining whether the titles should be designated M/C or placed in a bargaining unit before it entered into the agreement. PEF opposed that motion, noting that settlements like this had been entered into by the parties for many years, that GOER had express legal authority to do so without needing to seek the permission of any affected agency, and that its failure to properly advise its “clients” did not constitute good cause for it to be relieved of its obligations under the settlement. The Director agreed, denying GOER’s motion. GOER then filed exceptions with the PERB Board.

On May 27, 2014, we received a favorable decision from the PERB Board dismissing GOER’s exceptions. The Board found that GOER failed to show good cause why it should be allowed to withdraw from the settlement upon which PERB’s Director based his Interim Decision.

On July 2, 2014, GOER served on PEF a Civil Practice Law and Rules Article 78 proceeding challenging the interim decision of PERB which upheld the placement of 250 M/C positions in the PS&T unit. Both PEF and PERB (because GOER is challenging its decision) are respondents in the case. PEF will be responding to these papers in the next month and will argue in support of PERB’s decision which we believe properly placed the 250 positions in the PS&T unit. We are hopeful that we will receive a favorable decision by the end of the year.

Article 78 Proceeding Challenging Racing and Wagering¹ – Board’s Reduction of Wages for Seasonal Track Personnel

On July 17, 2014, we received a very favorable decision from the Appellate Division, Third Department, concerning our Article 78 proceeding challenging PERB’s dismissal of the improper practice charge PEF filed against the State Racing and Wagering Board in 1996. As you may recall, PEF’s charge alleged that the Racing and Wagering Board’s January 1996 decision to unilaterally reduce by 25% the per diem wage rates for all the non-statutory (“NS”) seasonal track personnel represented by PEF violated the Taylor Law. Last year, our Article 78 petition was dismissed in State Supreme Court. Now, by a 3-2 vote, the Appellate Division has reversed the lower court and found PERB’s dismissal of PEF’s charge on duty satisfaction grounds to be arbitrary and capricious.

In its 2012 decision, PERB had relied on the seasonal employee side-letter in the PEF/State Agreement to find that PEF and the State had prior to the reduction in per diem wage rates fully negotiated over the subject of whether the State Budget Director has discretion under the State Finance Law to make unilateral adjustments to compensation for seasonal, NS employees like those affected by this case. Thus, having already fully bargained this subject area, and having not obtained any additional restrictions on the Budget Director’s discretion, PERB found that the State, through DOB, could reduce the per diem salary rates for seasonal, NS Board employees without negotiating with PEF. PERB labels this type of defense a “duty satisfaction” defense, because it concludes that the parties have satisfied their mutual duty, or obligation, to negotiate in good faith over the at-issue subject. Further, the party asserting the defense bears the burden of establishing that it is reasonably clear – reading the relevant agreement as a whole – that the parties intended it to cover the specific subject at issue even if the agreement itself did not directly speak to that now contested issue.

We challenged PERB’s decision on several grounds. Our main argument was that PERB had applied its duty satisfaction defense too broadly, because the seasonal side letter was not evidence that the parties had fully negotiated over the issue of seasonal employee per diem wage rates and discretionary adjustments to those rates by the Budget Director.

Although the court below had found that PERB’s determination was reasonable, the Appellate Division disagreed, finding that the side letter was not “sufficiently broad to demonstrate that the subject matter that formed the basis for the improper practice charge, i.e., the unilateral 25% reduction in wages, was negotiated to completion, and PERB’s determination to the contrary was arbitrary and capricious.”

In the brief, we also argued that the duty satisfaction defense creates an undue burden on the union and sought to have the defense (which was created by PERB and not statutorily) declared contrary to the Taylor Law. Unfortunately, the court did not reach that argument because they found in this case that the defense was applied too broadly. Thus, although we were not successful in eliminating the duty satisfaction defense, we believe this Court precedent can be used to limit and narrow the State’s use of this defense.

Because the Appellate Division decision was 3-2, the State respondents, which include PERB, Racing and Wagering, and GOER, have an automatic right to appeal the decision to the Court of Appeals. We do not yet know if they will do so, but we believe it is likely an appeal will be filed.

PEF v. Civil Service Department (PERB Case Challenging Increase in Civil Service Exam Fee)

On October 15, 2013, we received a somewhat favorable decision from the PERB Board concerning the appeal by PEF, CSEA, DC-37 and NYSCOPBA of a December 2012 PERB ALJ decision that dismissed the unions’ improper practice charges challenging the State’s January 2009 decision to require State employees to pay a fee to take promotional Civil Service exams.

The Board essentially found that the ALJ erred when she concluded that the unions had failed to demonstrate that the State’s ten-year (1999 to 2009) practice of not charging promotional exam fees created a reasonable expectation among bargaining unit members that such a practice would continue. This is the first step necessary to prove an enforceable past practice. The Board has remanded the case back to the ALJ to determine whether the subject matter of the charges is a mandatory subject of bargaining and, if so, whether PEF’s charge was timely filed. The State has until August 1, 2014 to submit an offer of proof to PERB.

PERB Improper Practice Charge Challenging Denial Of President Kent’s Request To Tour Sagamore Children’s P.C.

On April 11, 2014, we filed an Improper Practice charge with PERB alleging that OMH violated §209-a.1(a) of the Taylor Law when it denied President Susan M. Kent and Council Leader Ann Cinadre the ability to tour Sagamore Children’s P.C with Senator David Carlucci, Chair of the NYS Senate Standing Committee on Mental Health and Developmental Disabilities on December 16, 2013. At their testimony before the joint Assembly and Senate hearing on September 9, 2013 regarding the impact of the Regional Centers for Excellence and the tentative closing of Sagamore Children’s P.C., President Kent and Council Leader Cinadre invited Senator Carlucci and other lawmakers to tour the facility with them in order to bring public awareness to the issues surrounding the closure. The walkthrough was coordinated by Senator Carlucci’s office and PEF. However, shortly before the walkthrough took place, OMH notified PEF that it would not allow a “union presence” on the tour and would bar President Kent and Council Leader Cinadre from attending. The tour went forward on December 16, 2013, with lawmakers and OMH management present only. OMH claimed that only legislators could attend such tours, despite having previously permitted community members and PEF representatives to tour Pilgrim P.C. in 2007 and NYSPI in 2003.

A conference was held at PERB before Judge Kenneth Carlson on June 16, 2014. GOER has proposed a possible settlement, and the parties have agreed to place the matter on hold pending settlement discussions until the first week of September 2014.

PERB Vehicle Use Improper Practice Charge

On March 25, 2014, we filed an improper practice charge challenging the State’s unilateral implementation of a Statewide Vehicle Use Policy. On November 27, 2013, Larry Schwartz, Secretary to the Governor, issued a memorandum to the Heads of State Agencies and Public Authorities with the subject line “State Vehicle Use Policy” that explicitly stated that it intends to “set forth a uniform Statewide policy for the use of State vehicles” and that it “applies to officers and employees of all State agencies and public authorities and supersedes all inconsistent vehicle use

¹ This agency has been renamed NYS Gaming Commission.

policies currently in effect.”

This improper practice charge covers all State agencies where PEF has members. PERB issued the charge on March 27, 2014. Additionally, because GOER is not a bargaining agent for the Canal Corporation, which is covered by the November 27, 2013 Memorandum, we filed an additional improper practice charge against Canal Corp also on March 27, 2014. PERB issued the charges in both cases.

With respect to the Statewide improper practice charge, a conference was held at PERB on June 18, 2014 before Judge Alicia McNally. Upon direction from PERB, PEF provided a detailed list of the affected agencies to GOER and PERB. The next conference is scheduled for August 7, 2014.

With respect to the Canal Corporation improper practice charge, a conference was held before Judge Kenneth Carlson at PERB on June 19, 2014. At the conference, the Canal Corporation represented that none of the PEF members employed by the Corporation were affected by the Statewide Policy. The parties agreed to keep the matter on hold unless and until Canal Corporation made any changes to the vehicle use policies and practices for PEF members. If there are no changes, the improper practice charge will be dismissed at the end of the canal season, with the understanding that PEF may refile a charge in the future if Canal Corp changes its vehicle practices to conform with the Statewide Policy at a later date.

PERB Improper Practice Charge Decrease In Pay For Student Interns

On April 4, 2014, we filed exceptions to the unfavorable decision we received in December 2013 from a PERB ALJ concerning an improper practice charge we filed in 2009 against the Office of State Comptroller.

PEF's charge had alleged that OSC's 2009 decision to unilaterally decrease the hourly pay rate for its high school, college and graduate school level Student Assistants constituted a unilateral change in a term and condition of employment, in violation of the Taylor Law. The ALJ had dismissed PEF's charge, finding that the State had proved a practice whereby it annually determined whether to raise, lower, or keep unchanged the hourly pay rate for the Student Assistants. In our exceptions, we assert that no such practice was proven and, rather, that the record shows that a practice of not reducing the hourly pay rates had existed for at least 10 years prior to 2009. GOER

responded to our exceptions in June 2014. We anticipate a decision from PERB sometime in early 2015.

PEF v. State (Justice Center – Code of Conduct)

On September 20, 2013, the Office of General Counsel filed an improper practice charge with PERB challenging the “Code of Conduct” and “Notice to Mandated Reporters” sent by the newly-created Justice Center to OMH, OPWDD, OASAS, OCFs, SED, and DOH for distribution to employees who have “regular and direct contact” with qualifying vulnerable persons.

The Justice Center instructed that qualifying employees must sign that they have read, understood, and agree to abide by the Code of Conduct. Although the “Protection of People With Special Needs Act” enacted into law in December, 2012, requires the Justice Center to develop a code of conduct, PEF argues that the subject matter of both the “Code of Conduct” and “Notice to Mandated Reporters” should have been negotiated with PEF, as they cover mandatory subjects of bargaining and certain provisions of the code extend beyond the requirements of the law. PEF has also challenged the agencies' failure to bargain over the procedure for implementing the subject matter of these documents. In addition, PEF argues that a portion of the “Code of Conduct” violates the union/member privilege recognized by the Taylor Law.

PERB issued the Charge. The parties met for a pre-hearing conference at PERB on December 5, 2013. Thereafter, the improper practice charge was placed on hold while applicable policies were collected by the State relevant to the various State agencies involved, and while PEF also made requests for relevant policies it would need in support of its case at hearing. In addition, the parties discussed settlement.

PEF requested another conference with PERB which was held on June 26, 2014. At that time, PEF requested that its improper practice charge be placed back on the calendar, and that potential hearing dates be offered. PEF has not yet received an offer of dates, and is awaiting hearing date offer from PERB.

PERB Injunction DOH Personnel Security Assessment

On June 17, 2014, we went to Albany County Supreme Court seeking a preliminary injunction against the

Department of Health (“DOH”) to prevent them from unilaterally implementing a Personnel Security Assessment Program without completing bargaining over its terms with PEF. We presented the papers to Judge McNamara. Present were attorneys from DOH, the Attorney General's Office, and PERB.

DOH asserted these new procedures were based on requirements from the Center for Disease Control (“CDC”). However, after we presented our papers to Judge McNamara, DOH notified us that CDC had granted them an extension of 60 days to implement the new security assessment in order to work out the details with PEF. At that point, the Judge indicated he was not willing to sign the injunction since the need was no longer imminent. However, he did have all parties state on the record that negotiations would continue, DOH would not implement the program prior to the August 16 date, and PEF preserved its right to pursue an injunction at a future date should DOH seek to unilaterally implement the program before bargaining has completed.

There is still an improper practice charge pending due to DOH's failure to disclose the work locations and names of PEF members that will be affected by this policy, as well as on its notice to us that the policy will be implemented. PEF and DOH have been negotiating over the implementation of the new procedures, and we are optimistic that we will soon reach a settlement with DOH that is favorable to our members. If we do not reach a settlement by August 17, we will be prepared to again seek a preliminary injunction from the Court to prevent the unilateral implementation of the new requirements.

B. Retiree Health Insurance Premium Kent, et al. v. Cuomo, et al (Federal Court Retiree Health Insurance Premium Litigation)

In December 2012, we filed a lawsuit in the United States District Court for the Northern District of New York challenging the October 1, 2011 increase in the health insurance premium charged to PEF retirees. The case was assigned to U.S. District Judge Mae A. D'Agostino. Our claim is that the State Defendants deprived PEF retirees of their contractual and constitutional rights by impairing their rights under the various PEF/State Collective Bargaining Agreements under which they retired, by unilaterally increasing their rate of

contribution toward their health insurance coverage.

After successfully emerging from the State Defendants' motions for dismissal and reconsideration of dismissal with our primary impairment of contract claim intact, the parties engaged in mandatory disclosure. The State turned over nearly 500 pages of emails concerning the increase to retirement health insurance. Some of the emails suggested that there may be a basis to sue certain State actors in their individual, as well as their official capacities. Thus, in March 2014, PEF along with several other Unions, made a motion for permission to amend our complaint to name these defendants in their individual capacities.

On May 28, 2014, the State opposed our motion for leave to amend our complaint, and in conjunction with that motion, the State also filed a motion for judgment on the pleadings. Defendants moved for judgment on the pleadings with respect to official capacity claims against certain defendants. The State submitted one memorandum of law both arguing against our motion to amend and in support of its motion for judgment on the pleadings.

On July 7, 2014, the PEF plaintiffs filed papers in reply to the defendants' response to PEF's motion to amend and also in opposition to the defendants' motion for judgment (dismissal) on the pleadings. On July 10, 2014, the motion for judgment on the pleadings filed by the defendants was referred to Magistrate Judge Hummel for the issuance of a Report-Recommendation and Order. On July 12, 2014 defendants replied to the PEF plaintiffs' opposition papers (i.e., the defendants submitted their reply to the PEF plaintiffs' response to the defendants' motion for judgment (dismissal) on the pleadings). The Court has directed that both the PEF plaintiffs' motion to amend and also the defendants' motion for judgment (dismissal) on the pleadings will be decided on submission (i.e., without any personal appearance/oral argument). Both motions have now been fully submitted. The Court has not specified when the decision on the two motions will be made.

Unfortunately, during this time, the Court has stayed any further discovery, except for limited discovery related to the 1982-1983 collective bargaining process, until after a decision on the motions to amend and dismiss. During this time, we may discover the names of those involved in that bargaining and conduct depositions where necessary to preserve testimony for trial. Once those motions to amend are

decided, we will be entering the heart of the discovery phase of this litigation, where interrogatories, further documents and depositions will be exchanged amongst the parties. The discovery phase can be expected to last several months. Following discovery, there will probably be another round of dispositive motions (for summary judgment) where the Court will be asked to resolve the entire case without the need for a trial. Then, if summary judgment does not fully and finally resolve the case, the parties would be looking at a trial which might be estimated to occur within approximately a year.

Amicus Brief Retiree Health Insurance Case (Kolbe v. Tibbetts)

On December 12, 2013, the Court of Appeals issued a favorable decision in *Kolbe v. Tibbetts*, a case in which PEF filed an amicus curiae or "friend of the court" brief in support of the retirees of the Newfane School district who are represented by CSEA. The Court of Appeals held that the at-issue collective bargaining agreements unambiguously established that retirees have a vested right to the "same coverage" during retirement as they had when they retired, but remitted the matter to the Supreme Court (the trial court) for a factual hearing to determine what "same" means.

As you may recall, the reason that we sought amicus status in this case is because it was our opinion that this decision would have a significant impact on our federal Contract Clause claim in *Kent v. Cuomo*. In our litigation, we rely on language in PEF/State CBAs which is similar to the language cited by the retiree-appellants in *Kolbe*.

In *Kolbe*, the retirees' prescription copays were increased post-retirement pursuant to a newly negotiated CBA. The retirees argued that they are only obligated to pay the copay rates that were in effect at the time of their respective retirements. The CBA language at issue states: "[t]he coverage provided shall be the coverage which is in effect for the unit at such time as it is provided to the employee[.]" and "[t]he coverage provided shall be the coverage which is in effect for the unit at such time as the employee retires."

The Court of Appeals held that this CBA language established retirees' vested right to the same health insurance coverage as was in effect at the time each retired. However, the Court further held that there remains a question of fact about whether the copay increase (along with a concomitant increase in retirees' flexible spending benefit)

constituted a change in coverage. The Court explained that the crux of the disagreement was not whether the retirees had a right to the "same coverage" but whether "same" meant identical, as the retirees argued, or equivalent, as the School District argued. The Court of Appeals found each interpretation was plausible and thus remanded the case to the Supreme Court for a hearing to resolve the ambiguity through each party's submission of extrinsic evidence.

However, in dicta in this decision, the Court suggested that it would favor the School District's more flexible approach to determining whether the coverage had remained the same. It noted:

If the District successfully demonstrates that the parties intended to create an entitlement to coverage equivalent to that which they received upon retirement, and the cost of co-pays is deemed a material aspect of the 'coverage' promised, consideration should also be given to the increase in the flexible spending benefit insofar as it may offset the significance of the modification [emphasis supplied].

Finally, the Court of Appeals rejected the District's argument that the Insurance Moratorium Law, which only applies to school districts, allowed it to modify the plaintiffs' coverage because a corresponding modification was made for active employees.

C. Flu Mask Litigation, Improper Practice Charges and Other Action *State Supreme Court Flu Litigation DOH Regulations (Kent, et al. v. Shah, et al.)*

On November 29, 2013, we filed a Civil Practice Law and Rules ("CPLR") Article 78 proceeding challenging DOH regulations which require certain employees of certain health care facilities to either get the flu vaccination or wear a mask when in areas where patients may be.

Unfortunately, on June 4, 2014, Acting Supreme Court Justice Hard denied our petition asking that the Department of Health's "flu mask" regulation located at 10 NYCRR §2.59 be annulled.

As you know, we argued that the flu mask regulation was arbitrary, capricious, and irrational to law, primarily because of the lack of efficacy of masks in preventing the transmission of flu from asymptomatic healthcare providers, because of the likelihood that mask wear increases respiratory infections in wearers, and because of the negative impact mask wear has on patient care, among other arguments. In addition, we argued that the flu mask regulation was, in effect, a mandatory flu

vaccination rule because of the burdensome nature of the flu mask rule. As such, we argued that the Department of Health also exceeded its statutory authority and usurped the role of the legislature in mandating influenza vaccinations (referred to as a Boreali analysis).

In denying our petition, Judge Hard found that the flu mask regulation was not arbitrary, capricious, and irrational to law where the Department of Health had broad statutory authority to promulgate rules regulating the transmission of influenza, and where the affidavit of the Department of Health's expert was credited as sufficiently based in fact and reasonableness so as to render the flu mask rule not unreasonable. Specifically, Judge Hard noted that "giving healthcare personnel the option to receive the influenza vaccination is not a de facto mandatory requirement as argued by petitioners, but appears to be a reasonable choice to prevent the spread of influenza in health care facilities."

Judge Hard went on to find that the regulation also was not promulgated in excess of the Department of Health's authority. Judge Hard rejected the State's argument that conducting a Boreali analysis was not appropriate, but, in conducting a Boreali analysis, she nevertheless found that the Department of Health did not exceed its authority in promulgating the flu mask rule. As significant parts of her Boreali analysis, we note that Judge Hard specifically found that the Department of Health did not create this rule outside of the realm of legislative guidance and that the special expertise of the Department of Health was necessary to the creation of the rule.

On July 23, 2014, we filed a Notice of Appeal. We anticipate a decision sometime in 2015.

Comments On OMH Proposed Flu Regulations

On February 26, 2014, the Office of Mental Health ("OMH") published a Notice of Proposed Rulemaking in the State Register for a permanent rule requiring that certain individuals, including healthcare providers, must wear masks during flu season, while in areas where patients may be present, if they do not provide proof that they received the influenza vaccination. The permanent mask rule proposed by OMH is identical to the mask rule passed by the Department of Health ("DOH") and challenged by PEF in the Albany Supreme Court, except that it applies to different types of facilities than the DOH mask rule. In

addition, if adopted, the rule would be a permanent version of the mask rule currently in effect at OMH facilities pursuant to an emergency regulation that took effect on December 2, 2013, and which was extended through June 28, 2014.

On April 10, 2014, on behalf of PEF, we submitted comments opposing the proposed, permanent mask rule and recommending that OMH withdraw its proposed regulation and wait to promulgate a new one until after gathering input from impacted employees, conducting additional scientific research, and until the outcome of the litigation filed by PEF challenging the identical DOH rule and the litigation filed by NYSCOPBA challenging the identical OMH emergency regulation are reached.

Our comments focused on the ineffectiveness of the mask at preventing the spread of influenza and the negative impacts that mandatory mask wear has on patient care. We also provided specific examples of actual, negative impacts to both healthcare providers and patients that have occurred since the DOH rule and the OMH emergency rule have come into effect. In addition, we argued that OMH should withdraw its proposed regulation in light of legal challenges to existing mask rules, and attached and submitted the litigation papers from PEF's pending lawsuit against DOH's mask rule.

In the June 4, 2014 NYS Register, consistent with its May 14, 2014 notice in the NYS Register, OMH formally adopted the permanent "flu mask" regulation effective June 4, 2014.

We are reviewing what our next step should be with respect to challenging this OMH regulation in light of the Court decision in our case challenging the identical DOH regulation.

PERB Flu Improper Practice Charges (PEF v. SUNY Upstate, OMH, DOH, OASAS and OMIG)

In addition to the litigation challenging the DOH flu regulation and our comments on the OMH proposed flu regulations, PEF has filed, and PERB has issued, separate improper practice charges against SUNY Upstate, OMH, DOH, OASAS and the Office of Medicaid Inspector General challenging the flu vaccination policies recently implemented by each entity.

In the SUNY Upstate case, the charge essentially challenges the facility's unilateral implementation of a system whereby employees must wear a large colored dot on their ID badges signifying that they have

been vaccinated. The charge against OMH challenges both the agency's unilateral implementation of an emergency work rule requiring either vaccinations or surgical mask wearing and a requirement that employees declining to be vaccinated complete a detailed declination form. The charge against DOH challenges its extension of its vaccination/masking policy to field employees entering non-DOH facilities. The charge against OMIG is very similar to the DOH charge. Finally, the charge against OASAS challenges its application of the DOH regulation to its personnel absent any proof that its facilities are covered by the DOH regulation.

GOER has answered all these charges, and the cases have all had their pre-hearing conferences. The parties have until August 5, 2014 to report back to PERB on whether, and which cases, may go to hearing, at which time offers of proof and stipulations of fact will be discussed. With respect to the SUNY Upstate case, there is a tentative settlement agreement, and we are optimistic that the case will settle.

D. Hurricane Sandy Overtime

Kent, et al. v. New York, et al. (Article 78 proceeding challenging DOB's overtime waiver which only pays compensation after 47.5 hours of work)

On April 4, 2014, we perfected our appeal in the Hurricane Sandy overtime case with the Appellate Division, Third Department. As you know, the issue in this litigation is whether the Director of the Budget ("DOB") improperly denied overtime compensation to employees in Grade 23 and above positions for overtime work they performed in connection with the State's response to Hurricane Sandy, by limiting their compensation to hours worked beyond 47.5 per week during the Hurricane Sandy emergency period.

Civil Service Law §134(6) authorizes DOB to grant overtime to Grade 23 and above employees (who are generally not overtime eligible under the Law and PEF/State Contract) during a DOB-declared extreme emergency. We are arguing, in essence, that the statute entitles overtime ineligible employees to be compensated to the same extent as overtime eligible employees during an extreme emergency. We are also arguing that by setting the 47.5 hour threshold for the granting of emergency overtime payments, DOB has improperly expanded the normal workweek, which under Civil Service Law §134(1) is "not more than 40 hours," and

that it has acted contrary to its own established criteria for the granting of emergency overtime compensation.

The State filed its brief on July 11, 2014. We intend on responding to that brief. The case is scheduled to be argued in the November term, and we anticipate a decision by the end of January 2015.

E. Facility Parole Officer/Offender Rehabilitation Counselor Title Consolidation

Lavere, Kellar & Kent v. Boone, et al.
(DOCCS Offender Rehabilitation Coordinator Title Consolidation)

On October 15, 2013, we filed an Article 78 petition in State Supreme Court challenging the Civil Service Commission's ("Commission") June 17, 2013 decision upholding the Offender Rehabilitation Coordinator title merger. The background of this case is as follows: In January 2012, DOCCS applied to the Department of Civil Service ("DCS") for a title structure change that would consolidate the Correction Counselor and Facility Parole Officer title series into the new Offender Rehabilitation Coordinator title series. In March 2012, DCS Director of Classification and Compensation Patricia Hite approved the request, and in June, 2012, we filed an Article 78 petition challenging her determination. At the same time, PEF's Civil Service Enforcement Department filed an appeal of Director Hite's determination to the Civil Service Commission.

On June 17, 2013, we received an unfavorable decision from the Commission denying our appeal of Director Hite's determination upholding the title merger. The Commission found that the title merger was a "... logical, reasonable and necessary first step toward the full and complete implementation of a new model of offender casework services..." and that it met the statutory requirement under Civil Service Law §118(2)(a) that the duties and qualifications of the title were "so substantially similar" that the merger was appropriate.

We then filed this Article 78 proceeding challenging that decision. In our lawsuit, PEF alleged that the merger is not permitted under the Civil Service Law because the duties, responsibilities, and minimum qualifications for the appointment of the Correction Counselor and Facility Parole Officer title series are not substantially similar. Additionally, PEF alleged that the decision to merge the titles was

inappropriate because the duties and functions of the titles fundamentally conflict with one another. Since the ORC title now requires the employees to both counsel inmates and to participate in parole matters that can result in suspension of or denial of parole, there is a clear conflict between the duties.

On March 11, 2014, we argued this case before Judge Richard McNally, Albany County Supreme Court Justice. We anticipate a decision will be issued imminently.

F. Administrative Law *Matter of Doctor v. OASAS*

On December 5, 2013, we received a favorable decision from the Appellate Division, Third Department regarding our challenge to the revocation of a PEF member's alcohol and substance abuse counseling credential ("CASAC") and his termination from employment by OASAS.² The Court found that the hearsay evidence presented at the employee's credentialing hearing was not sufficiently reliable to support OASAS' revocation of his credential. Therefore, the Court annulled the revocation which, it is our position, should lead to the employee getting his credential back, getting his job back and receiving almost two years in back salary.

This is a significant decision, not only for the benefits we obtained for the individual member, but also for other PEF members who have hearings before OASAS regarding their credential. PEF provides representation to our members in hearings regarding revocation of, or other penalty, with respect to their CASAC credential. Such hearings are difficult to win because the burden is on the employee to disprove the charges, the hearing officer is chosen by OASAS and hearsay is generally admissible in such proceedings. Also, the OASAS-appointed hearing officer only has the authority to make recommendations to OASAS, and OASAS has the discretion to accept, reject or modify the recommendation. This hearing process is in many ways similar to the CSL §75 process. Often at revocation hearings, the OASAS attorney presents very little or no direct witness testimony. Now, at such hearings, we can use this decision to argue that OASAS needs to produce at least some credible, non-hearsay evidence to prove the case in order to withstand judicial review. Also, having a witness testify under oath in support of the charges against a member will provide PEF with the opportunity to cross-

examine the witness in order to test his or her credibility and recollection of events. Thus, we believe this decision will increase our members' due process rights at such hearings. Also, and very importantly, if a CASAC credential is a minimum qualification for employment, and the credential is revoked, the PEF member can be summarily terminated from employment without Article 33 protections. Therefore, this enhancement of due process is very important.

G. Out-of-Title Cases

PEF v. Tax & Finance (RPA-1, Grade 18 doing work of RPA-2, Grade23)

On January 15, 2014, we filed an Article 78 petition in Albany County Supreme Court challenging the Governor's Office of Employee Relations ("GOER") September 17, 2013 denial of an out-of-title grievance filed on behalf of 45 Real Property Analyst 1s ("RPA-1"), Grade 18 at the Department of Taxation and Finance ("DTF") whom we alleged are performing the work of RPA-2s, Grade 23.

Initially, on January 9, 2012, PEF filed a grievance on behalf of 42 RPA-1s, Grade 18 and that grievance was sustained by DTF. DTF found that RPA-1s were inappropriately assigned to perform Customer Relationship Management/Manager ("CRM") duties appropriate for RPA-2s. CRM duties generally involve being the lead contact with counties and municipalities served by ORPTS. DTF further advised that ORPTS would change its office structure so that RPA-1s would not be assigned primary CRM duties.

However, despite the structure change, which placed RPA-1s in teams with RPA-2s in lead positions, the duties did not change. RPA-1s continued to act as the primary CRM contact with counties and local officials.

Therefore, on July 3, 2012, PEF filed another class-action out-of-title grievance, this time on behalf of 45 RPA-1s who continued to perform primary CRM duties. On August 3, 2012, DTF denied the grievance at Step 2. PEF appealed to Step 3, and one year later, GOER issued a decision denying the grievance.

In its decision, GOER claimed that the reorganization allowed RPA-2s to delegate some CRM duties to RPA-1s. However, it is our position that RPA-1s were not simply delegated some CRM duties – they remained the primary contact for customers

² Note, this situation is somewhat unique as OASAS is both the employer and the credentialing oversight agency for CASAC licenses.

of ORPTS.

We then filed this lawsuit which alleges that GOER's decision was arbitrary, capricious, irrational, and contrary to its earlier precedent and must be overturned. GOER provided no reasonable explanation for deviating from its earlier decision upholding the grievance. Further, the duties are clearly out-of-title on their face because only RPA-2s have any mention of CRM duties in their Tentative Classification Standards. We have requested that the Court overturn the decision and make the 45 RPA-1 grievants whole by paying them the difference in salary between the Grade 18 and Grade 23 titles from the date they began performing the CRM duties.

This case was argued before Judge David A. Weinstein on May 8, 2014. We anticipate receiving a decision in this case sometime in late 2014.

Westbrook, Daniel & PEF v. GOER, SED, et al. (Out-of-Title/Reclassification)

On September 30, 2013, we reached a favorable settlement with the State in connection with an Article 78 proceeding we commenced last May in Albany County Supreme Court on behalf of Daniel Westbrook, who is employed as a Senior Mechanical Construction Engineer ("SMCE"), Grade 24, by the New York State Education Department ("SED").

Our lawsuit alleged that Mr. Westbrook was performing the duties of an Associate Mechanical Construction Engineer, salary grade 27 ("AMCE-27"). Besides the arguments challenging that the denial of Mr. Westbrook's out-of-title grievance was arbitrary and capricious, we had an additional issue in this case, which is that, in 2011, the Civil Service Commission granted Mr. Westbrook's request for reclassification to the AMCE-Grade 27 title based on its determination that he was performing such higher graded duties. However, the State Division of the Budget failed to act on the classification request, and he remained in the SMCE-Grade 24 title. Thus, we also asserted that DOB's failure to act on the reclassification decision of the Commission's was improper, and the Commission's determination that Mr. Westbrook was performing the AMCE-Grade 27 duties should have been dispositive on this issue

before GOER.

We were able to settle this case. The terms of the October 9, 2013 So Ordered Settlement by Justice Stephen G. Schick were that the State agreed to pay Mr. Westbrook back pay for the period May 3, 2011 through July 11, 2013 in the amount of \$13,654.59. That figure constitutes the difference between Mr. Westbrook's salary in the SMCE position and that of an AMCE, for the relevant and contractually appropriate period we alleged Mr. Westbrook was performing the higher-graded AMCE duties.

H. Freedom Of Information Law ("FOIL")

FOIL Litigation (Kent v. DOB)

On January 17, 2014, we received a favorable decision regarding the May 13, 2013 CPLR Article 78 petition PEF brought to compel the New York State Division of the Budget ("DOB") to turn over documents responsive to PEF's May 9, November 16 and December 7, 2011 FOIL requests.

In these three separate FOIL requests, the PEF Research Department sought information about contracts between DOB and two private companies³ which concern the consolidation of State services, such as information technology services, procurement services and various assets, including building space, to save money. Pursuant to these contracts, the companies were to provide the State with recommendations as to how to achieve such consolidations and savings. The State turned over some of the requested documents but not all. Thus, on May 13, 2013, we filed a lawsuit seeking the rest of the information.⁴

In response to PEF's petition, DOB argued that it properly redacted and withheld some of the requested documents. The DOB also submitted an unredacted set of the withheld materials to the Court for an in camera review. Deloitte responded to the petition by arguing that the documents related to its consulting contract with the State were properly withheld as the documents contained trade secrets. Accenture responded to the petition by stating that the documents which it had

previously asked the DOB to withhold based upon trade secrets could now be released because of the passage of time and other factors.

The Court conducted a detailed in camera review of all of the documents which were either redacted or withheld from disclosure. As part of the decision, Judge Connolly created a chart of the documents and listed whether or not the documents were properly redacted or withheld, or if the documents should be released to PEF. He decided that several more documents should be released or that some pages should be released with minimal redactions because DOB's determination to withhold them was arbitrary, capricious and without basis in the law.

Additionally, Judge Connolly's decision awarded PEF attorney's fees and costs because respondents had no reasonable basis for denying access to many of the documents. After a conference in Judge Connelly's chambers to address the process for determining the appropriate fees, the parties agreed that the State would pay PEF \$10,000 in such fees. This agreement was memorialized in a Stipulation signed by Judge Connelly in March 2014.

Amicus Brief FOIL Case (Empire Center v. NYS and NYC Retirement System)

On February 18, 2014, PEF received a favorable Order from the New York Court of Appeals regarding our request to file a proposed amicus curiae (friend of the Court) brief with respect to two similar cases: Empire Center v. NYS Teachers' Retirement System and Empire Center v. Teachers' Retirement System of the City of New York. In its Order, the New York Court of Appeals accepted our amicus brief.

Both cases turn on an interpretation of the New York Freedom of Information Law ("FOIL") §89(7). The specific issue is whether the New York City and New York State Teachers' Retirement Systems properly withheld retiree names from the Empire Center after it requested information in connection with retiree pensions. Our amicus brief supported the retirement systems and their decision to withhold retiree names. This case is important to PEF because the same FOIL language at issue in

³The companies are Deloitte Consulting LLP ("Deloitte") and Accenture LLP ("Accenture"). Deloitte is a consulting company which was engaged by the DOB to analyze and transform the State's Information Technology environment. Accenture is also a consulting company which was engaged by the DOB to analyze and transform the State's procurement process.

⁴This case has an extensive history, including a previous lawsuit seeking similar information which we settled for attorneys fees and PEF securing the right to bring further litigation to challenge the failure to disclose all information requested (see June 5, 2013 Legal Department Executive Board Report).

these teacher retirement cases would apply to the New York State Employees' Retirement System ("NYSERS"). Thus, if the Court of Appeals upholds the lower court decision, organizations like Empire Center will not be able to get the names of PEF retirees. If the Court of Appeal overturns the decision, then such information about PEF retirees is discloseable.

Unfortunately, on May 6, 2014, the Court of Appeals reversed the holding of the lower court and decided that FOIL does require the disclosure of the names and pension information of retirees in the both the NYC and State Teachers' retirement systems.

After the Court of Appeals' ruling, conservative think tanks like Empire Center will now be able to, as they have in the past, get information related to public employee pensions, but also they will now be able to obtain the names of retirees to whom the information corresponds.

I. Privacy for Public Employees

Dept. Of Tax And Finance And Inspector General MOU (State Court) (Kent v. Tax & Finance)

On November 20, 2013, we received an adverse decision from the Albany County Supreme Court in litigation we filed challenging a memorandum of understanding ("MOU") between the Department of Taxation and Finance ("Tax" or "DTF") and the New York State Inspector General's Office ("NYSIG"), which allows Tax to disclose State employees' State tax return information to the NYSIG. We claimed in our litigation that such disclosure violated the secrecy provisions of the Tax Law §697(e) and the privacy provisions of the Personal Privacy Protection Law (Public Officers Law §96). We also argued that the Tax Commissioner violated Tax Law §170(4) by appointing NYSIG employees as Deputy Tax Commissioners.

In this case, the State argued, and unfortunately, Judge Cahill agreed, that Executive Law §§53 and 54 provide NYSIG with broad authority to investigate covered agencies, including DTF, and to access documents including State tax return information. Judge Cahill also noted that "the safeguards and parameters of the MOU permit NYSIG to review and receive state tax information only when the Commission[er] of DTF agrees that it is necessary."

In dismissing our petition, Judge Cahill held: "there is no basis to conclude that

respondents' interpretation of Tax Law §697(e) is arbitrary, capricious, irrational or contrary to law or that its disclosure of state employees' tax return information without a judicial order, but pursuant to the MOU, constituted a violation of Personal Privacy Protection Law §96." The Court also concluded that the Commissioner of Tax and Finance had the authority to appoint 10 NYSIG employees as deputy commissioners of DTF, for the sole purpose of accessing the state tax return information within the parameters articulated in the MOU. After review and consulting with petitioners and leadership at the agency, we did not file an appeal, as we believed that there was no significant chance of success on appeal.

Although we were not ultimately successful in this case, it is my opinion that in bringing this litigation, we were successful in shedding light on the MOU and, although we cannot definitively prove our lawsuit was the impetus (the timing of the changes strongly suggests that the two are related) there were significant changes beneficial to our members made to the original MOU, a few days after we filed this litigation. Specifically, the May 23, 2012 MOU reduced the number of NYSIG employees designated as Deputy Tax Commissioners, and therefore able to access tax information, from 62 (as per the January 2012 MOU) to 10. Additionally, the purposes for which those NYSIG employees could access State employee taxpayers' State tax return information without a judicial subpoena was changed from the following in the January MOU "access and use tax return information only for the purposes of investigating the conduct of DTF employees or tax crimes potentially committed by employees of any covered agency[,]" to the following in the May MOU "access and use tax return information for the limited purpose of investigating conduct of DTF employees or investigating crime(s) potentially committed by employees of any covered agency relating to a violation of their official duties, where confidential DTF records were accessed and/or utilized in the commission of said crime(s)."

J. Confirming Arbitration Award *Supreme Court Motion to Confirm Arbitration Award (Lefebvre v. OGS)*

On May 2, 2014, we brought a lawsuit against the State under CPLR Article 75 to confirm a January 3, 2014 arbitration Decision and Award ("Award"), on behalf of a member who is employed by OGS. The

member had been issued a Notice of Discipline (NOD) pursuant to Article 33 of the PEF/State Contract, which proposed a 30 day suspension without pay as the penalty. After an arbitration hearing in which the member was represented by his Field Representative, the arbitrator ruled that the Grievant was guilty of the charges in the NOD, but found "[t]he appropriate penalty is a one (1) week suspension without pay...." However, after receiving the Award in early January, OGS wrote to the employee advising him that it had scheduled his one week suspension without pay from January 16 through January 24, dates which encompassed the Martin Luther King (MLK) holiday.

OGS then informed the employee that he would not be credited with time off with pay for the MLK Holiday because he had been suspended without pay from work on both the day before and the day after the MLK holiday. Thus, instead of suspending the employee without pay for five days, OGS suspended him without pay for six days.

The State agreed to settle this case for \$282.26, which the parties agreed amounted to one-day's pay for Mr. Lefebvre in January of 2014. The parties entered into a Stipulation of Settlement and Order of Discontinuance which was ordered and signed by Judge Gerald W. Connolly on July 18, 2014.

K. Article 33 Arbitration Cases

As you know, PEF provides legal representation free of charge to PEF members whom the State seeks to terminate from employment under Article 33 of the PEF/State Contract. The Article 33 due process procedure culminates in binding arbitration before an arbitrator from a panel agreed to by PEF and the State.

During the last year, 186 Notices of Discipline seeking termination were issued to our members. In 112 of those cases, the member was suspended. We have received 46 final arbitration awards. The rest of those cases were settled the charges were withdrawn or are still pending.

III. CONCLUSION

Please do not hesitate to contact the Office of General Counsel if you have any questions concerning any aspect of this report, or any of the cases or other matters being handled by this Office.

Lisa M. King
General Counsel

Legislative

The PEF State Legislative Office is responsible for pursuing the legislative and political agendas established by PEF under the direction of the President and in cooperation with the Regional and Statewide Political Action Committees and the Executive Board.

Our efforts on behalf of the passage of PEF's budget and legislative priorities continued throughout the 2014 legislative sessions. Key legislative issues were continually monitored and resulted in daily, direct lobbying on bills that would positively impact PEF members and stopping legislation that would negatively impact PEF members.

2014 Legislative Session (January – June 2014)

Legislative office staff attended the State of the State Briefing, the Fiscal Policy Institute's Budget Briefing, and the AFL-CIO Budget Briefings, and the Joint Legislative-Budget Hearings to get the various stakeholders' take on the state Fiscal Year 2014-15 Budget.

Listed below is the status of the PEF Bills that the Legislature took action on during the 2014 session:

LEGISLATIVE ACTION ON BUDGET BILLS THAT PEF OPPOSED:

The following budget actions were taken by the Legislature in response to PEF's Concerns:

1. Authorization of a private hospital pilot

This proposal threatened the viability of the State University of New York (SUNY) Hospitals and set the stage for privatization of

state hospitals.

The Legislature rejected the proposal, and it was deleted from the budget bill.

2. Expand exemptions in the Nurse Practice Act that would have affected direct-care staff in non-certified settings

The proposal would have allowed unlicensed, direct-care staff to perform tasks that should be done by nursing professionals. The Legislature removed that section from the budget bill. Nurses will continue to handle professional nursing responsibilities.

3. Consolidation of State Laboratories

Many state labs are not suitable for consolidation because of cross-contamination concerns and the uniqueness of the laboratory work. The Legislature rejected the lab consolidation project, and that language was removed from bill

4. Expand Board of Cooperative Education Services at the Office of Children and Family Services (OCFS) Facilities

This section of bill was removed. OCFS professional educators will continue to teach classes they now do at OCFS facilities.

5. Expansion of privatization of Juvenile Justice System

The state proposed to extend the timeframe for closure of OCFS facilities as part of the state's Close to Home Initiative. The bill language was removed. The Close-to-Home Initiative time frame was not extended.

6. Office of Information Technology Services (OITS) Temporary Appointments

The proposal allowed OITS to make up to 300 temporary IT appointments without an exam for up to five years. It also limited eligible-list certification to certain titles and exempted former state IT contractors from the two-year hiring ban.

The Legislature rejected the proposal. All sections of budget bill relating to these issues were removed.

7. Expansion of Design-Build, and Design, Build, and Finance Projects

The proposed budget language allowed consultants to design, build, and inspect their projects. That section of the budget bill was removed. The Design-Build Law expires 12/31/14.

8. Eliminate Medicare Part B Reimbursement for Certain Retirees

Bill would have eliminated state payment of Medicare Part B payments for single retirees with income over \$85,000 and married retirees with incomes over \$170,000. The Legislature rejected the proposal. This section of the budget bill was removed. The state will continue to pay Medicare Part B Premiums for its retirees.

9. Use Contract Staff to Conduct Social Services Hearings

The original bill language was

changed to say that social services commissioner may contract for assisting staff in fair hearings appeal hearings.

BILLS SIGNED BY THE GOVERNOR

1. Safe Patient Handling Act – A8559/S6359

Legislation creates safe-patient handling policy for all healthcare facilities in NYS.

Bill passed as part of the Article VII Budget Bill for Health and Mental Hygiene. It was signed by the Governor on 3/31/14.

BILL THAT GOVERNOR/LEGISLATURE MADE AGREEMENT

2. Delay Offices of Mental Health and People with Developmental Disabilities (OMH/OPWDD) Closures – A8294B/S5986B

The governor and Legislature reached an agreement on aspects of OMH/OPWDD closures. The plan will include a workgroup of public employees' unions to develop a long-term plan for future mental health and developmental disability services. This plan will include ways to preserve state-run services.

PEF will continue to fight for sound public policy that provides state-operated quality services to the citizens of New York and to have those services provided by PEF professional staff.

BILLS THAT PASSED BOTH HOUSES

3. Parole Officers' Workplace Injury Parity – 5899A/S4095

This bill makes provisions for payment to certain peace officers employed by Department of Corrections and Community Supervision for salary and medical expenses as a result of injury on the job.

4. Veterans' Buy Back Bill - A6974B/S4714A

The bill provides up to three years of service credit to members of public retirement systems of state for military service regardless of dates or location of service.

5. Administration of Services Offered by the Office of People with Developmental Disabilities (OPWDD) – Front-Door Bill – A8846C/S6641C

The bill amends the Mental Hygiene Law to require the OPWDD Commissioner to develop a plan to overhaul and improve the front-door process.

BILLS THAT PASSED ONE HOUSE

6. Enacts Pension Justice for Families of Deceased Retirees - A4916C/S4979B

This legislation allows NYS Retirement System to process retirement paperwork based on the date of post mark in event that the employee dies prior to actual retirement.

The bill passed Senate. It was referred to Assembly Ways and Means.

7. Strengthens Whistleblower Protections for Public and Private Sector Employees – A5696A /S3862A

This legislation protects public and private sector employees against

employer retaliation for disclosure of employer activity that the employees, in good faith, reasonably believe has occurred or will occur that constitutes illegal business activity. The bill passed the Assembly. It was placed on the Senate Floor Calendar.

BILLS WITH COMMITTEE MOVEMENT

8. Cost-Benefit Analysis for New York State (NYS) Personal Service Contracts- A7506/S5643A

This legislation requires that when an agency wants to contract out for services, it will be required to compare costs to determine whether the work can be performed at a lower cost by using state employees rather than consultants. Certain exceptions to that requirement are noted. A quality component is part of the cost-benefit analysis.

This bill was laid aside in the Assembly. The Senate bill was amended and committed to the Senate Finance Committee.

9. Safe Staffing Act - A6571/S3691

This legislation sets minimum staff ratios for healthcare facilities in New York state.

The bill was reported to Assembly Ways and Means and the Senate Health Committees.

10. Applies the Freedom of Information Law (FOIL) to All Types of State Agencies – A7554B/S2224B

This legislation expands the definition of agencies covered by FOIL to include certain types of corporations and foundations that are created, controlled, or affiliated

with, a state agency, including, but not limited to, the State University of New York (SUNY).

The bill was reported to the Assembly Codes Committee. It was placed on the Senate Floor Calendar.

11. “Heart Bill” for Parole Officers - A4922/S4149

This legislation provides that it shall be presumptive evidence that a parole officer who suffers from heart disease that results in disability or death, that disability or death will be considered as employment-related heart disease. The legislation also requires that the parole officer successfully passed a physical examination prior to entry into service and that the record does not indicate any heart disease.

This bill was referred to the Assembly Government Employees and to Senate Civil Service and Pension Committees.

12. Preserves Retirees’ Health Insurance Benefits – A902/S3627

This legislation prohibits public employers from diminishing health insurance benefits or employer contributions to the health insurance of retirees below the level they paid as active employees.

The bill was held for consideration in the Assembly Governmental Operations and placed on the Senate Floor Calendar.

13. Cervical Cancer Screening Bill – A8471/S2069

This bill grants four hours of

excused leave to public officers and state, county, municipality, or school district employees to have screening for cervical cancer.

The bill was reported to Assembly Ways and Means and the Senate Civil Service and Pensions Committees.

14. Community Mental Health Reinvestment Services – A8517/S6363

This bill relates to community mental health reinvestment services. It expands access to community mental health services.

It was reported to the Assembly Mental Health and Senate Finance Committees.

15. Requires Fair and Equal Pay for Equal Value Work – A1729A

This legislation implements a state policy of fair and equal pay for equivalent value of work for all public employees.

The bill was amended on its third reading in the Assembly.

The 2014 Legislative Session ended on June 20, 2014. Legislative staff worked diligently throughout the session to get legislative support for PEF’s Legislative Priorities.

STATEWIDE AND REGIONAL POLITICAL ACTION COMMITTEE (PAC) ISSUES

Legislative Staff attended the Black and Puerto Rican Caucus and the Somos El Futuro Conference.

The statewide Political Action Committee and the Executive Board approved the 2015 draft of the state

and federal legislative agendas. These draft agendas will be presented to convention delegates.

State Legislative Staff has been working with throughout the year with New York State United Teachers, United University Professionals, and the Civil Service Employees Unions on the State University of New York (SUNY) Downstate issue.

Additionally, staff attended the SUNY Board of Trustees Meeting, and participated in the weekly clergy and community meetings held in Brooklyn. Staff also has had ongoing meetings with the Brooklyn Legislative Delegation to develop a city-wide, safety-net hospital plan. Now that the federal government has approved an \$8 billion 1115 Medicaid Waiver for New York state and SUNY Downstate is in the process of selling the Long Island Community Hospital (LICH), the union coalition partners (New York State United Teachers, United University Professors, Civil Service Employee Association, and PEF) will continue to meet to ensure that SUNY Downstate moves to a more fiscally-sound position.

Legislative staff conducted political action training and meetings for various regions throughout the state. Additionally, staff worked with PEF leadership and members to develop and implement the “*Save Our Services*” campaign.

Legislative staff participated in the monthly PEF statewide Political Action Committee meetings as well as the AFL-CIO political director and lobbyist meetings held during the legislative session.

Public Relations

The Public Relations Department is PEF's communications center for PEF leaders and members, and the creative branch of the union. The PR Department focuses on helping to advance PEF's goals to achieve more community awareness, job security for members, improved retirement benefits, and stronger contracts. The department is instrumental in promoting the union's views, activities and policies through the news media, community relations, marketing and advertising.

Major Activities

The Public Relations Department was involved with several of the behind-the-scenes productions and plans for the January 29 "Save Our Services" rally held in the well of the Legislative Office Building in Albany. The department designed, created, produced and ordered rally posters, flyers, stickers, podium graphics, red T-shirts and wristbands. It created and placed a promotional ad for the rally that ran in The Legislative Gazette. It also designed a postcard opposing the closures of state facilities that was mailed to legislators.

The department worked closely with other PEF departments to ensure the needs of PEF's legislative fight-back campaign were met. PR designed and produced fact-sheet brochures for the "Save Our Services" campaign. The brochures highlighted the vital public services performed by PEF members at the state Department of Corrections and Community Supervision, Office of Mental Health, Office For People With Developmental Disabilities, and SUNY Downstate Medical Center.

The Public Relations Department was highly involved in the efforts to save SUNY Downstate Medical Center. It designed and created a logo used by the 'Save SUNY Downstate coalition'

on T-shirts, canvass bags, a podium sign, and a large sign on a trailer where the Downstate clergy held a fast. Other productions included signs for rallies, and the distribution of media advisories and press releases. The department worked with Downstate's union leaders to obtain accurate information for *Communicator* stories and for statements issued by the PEF president.

In addition to the items created for PEF's fight-back campaigns, PR worked with PEF's Training, Education, Health and Safety Department to produce a tri-fold brochure for health-care workers and "anti-bullying" buttons. It also produced the graphics for the bullying survey. PR created a brochure for PEF's Veteran's Committee highlighting its legislative priorities, ads for PEF retirees, and stickers for parole officers.

PR designed all the promotional materials and agendas used for nurse's conference day, Health Care Workers Lobby Day, several regional leadership conferences, invitations to regional legislative breakfasts and for the Somos El Futuro reception.

On a regular basis, PR worked with other internal departments and developed a "Call Your Legislator" flyer, a PEF budget-concern flyer, a steward's recruitment brochure, a COPE "before and after" ad flyer, and color posters for use in PEF's Organizing Department.

The PR Department helped to plan and coordinate press coverage by assisting in the preparation and distribution of media advisories and press releases. The department arranged for media interviews and garnered news coverage during the past 12 months. It made recommendations for the "Labor on the Move" campaign and helped prepare union leaders for annual events

such as memorial services. PR highlighted the role of members in the community such as the efforts of parole officers rewarding deserving parolee families during the holidays. This event received both print and TV coverage.

PR provided photos and text for the PEF website for various events such as Health Care Lobby Day, Veteran's Lobby Day, PEF leaders testifying at state Senate and Assembly hearings, press conferences, political endorsements, memorial ceremonies and rallies.

The department designed and revised materials for new members. It also created COPE brochures, badges, business cards, certificates and plaques. And, it produced photo displays for the PEF headquarters lobby showcase and for a PEF booth at the State Fair.

The Communicator

The PR department produces PEF's award-winning magazine, *The Communicator*. Department staff plans, researches, photographs, interviews, writes, edits, proofs, designs and sells ads for the magazine, which is published 10 times a year. Ad sales from *The Communicator* and the convention yearbook totaled \$184,576, for the year ending March 31, 2014. Advertising revenues help defray the costs of producing *The Communicator*. The magazine is available in print and online. Most members still prefer to receive the print edition.

In addition to *The Communicator* staff taking photographs for the publication, current and retired members volunteer their time to take photos at various events across the state for use in the magazine.

Media Relations

The PR Department writes and

distributes media advisories and news releases throughout the year and arranges for media interviews for PEF leaders. PR also responds to press calls from newspaper, radio and television reporters statewide.

Information Line

Every week, the department prepares, records and updates the PEF Information Line. This service helps keep members informed of PEF activities, deadlines for PEF/state programs such as educational development, and meetings for the PS&T contract negotiations.

Electronic News Clipping Service

The Public Relations Department

provides a timely news clipping service for in-house department heads and Executive Board members to keep union leaders aware of news stories and editorials important to the union. These clips feature breaking news in New York that affects state agencies and its workforce. Other news items focus on the state budget, parole matters, elected officials, and members working in their communities.

PEF's Annual Convention

PR department staff creates the graphics, podium art, and posters for the annual PEF convention. It plays a major role in creating the visual presentation. It produces the I.D. badges and other delegate materials, including the

program guide, yearbook and annual report.

Recognition/Awards

The Public Relations Department won awards in 2014 for work produced in 2013 in a regional contest. The Metro New York Labor Communications Council awarded two "special mentions" in the categories of news writing and feature writing in *The Communicator*. The stories were "Moving Juvenile Offenders to NYC Creates Chaos" (October 2013) and "Behind The Scenes With Bronx Parole Officers" (December 2013).



Purchasing/Facilities Management

The purchasing and facilities department is responsible for providing support services for a broad spectrum of organizational activities. This department is staffed by two communications technicians who report to the Executive Director.

The facilities section covers: contractor coordination and supervision support of PEF events, maintenance of the buildings and grounds, conference room set-ups, warehouse and records management, including support for Membership Benefits and PEF Retirees, oversight of U.S. postal service specifications, and operation of the always busy mailroom/copy center. The purchasing area includes: vendor and office lease negotiations, centralized purchasing of equipment, supplies, and services associated with special projects. We have recently consolidated our warehouse facilities from two cramped ground level units to one larger facility. The availability of a loading dock at the location will greatly simplify deliveries. Additionally, the new location will improve our record storage capacity and



better protect important business records from damage.

We continue to focus on deferred building maintenance at headquarters, including HVAC repairs.

Visitors to our headquarters could not help but to notice the mysterious "PODS" in our parking lot. We have also recently acquired 35 used modular work stations at no cost. These units have been moved from their original location and are being stored in the PODS until this project is complete.

Multiple work stations in Membership Benefits and The Organizing Department have been replaced giving those areas an updated look. We will continue to replace furniture in other areas of our headquarters, most in need of modernization. When completed, this project should provide a significant face lift to the furniture in several areas of our main building for the modest costs associated with moving, storing and re-installing the units.



Retirees

The PEF Retirees' office is responsible for advocating on behalf of the PEF Retiree membership. The PEF Retiree office and Executive Board strive to protect the benefits of what PEF Retirees have worked so hard for during their careers and many years of state service. We also continue our involvement with the law suit on the 2 percent increase in the insurance premium for retiree health insurance for those retired prior to October, 2012.

Office Operations

PEF Retirees office staff respond to thousands of inquires each year via telephone calls placed to the office, email inquiries, faxes and visitors. Inquiries include membership enrollment, renewals, benefits, and a point of reference to state agencies.

Statistic: We are growing segment of PEF as of June 30, 2014 we have 14,651 active members.

Membership to the PEF Retirees is free for the first year, for state employees who retired after April, 2006 and have the option to have their membership dues and several membership benefits automatically deducted from their NYS pension check monthly.

Statistic: 64 percent of PEF retiree membership participates in the pension deduction payment method for dues.

Retiree Regions

PEF Retirees has 12 regions statewide. Each region has one chapter president who works with their team of elected officers. The chapter presidents will hold on average three to four general membership meetings per year, an annual holiday party, and a summer picnic. The attendance for these meetings is always high and includes a lunch, guest speaker on pertinent retiree topics, a question and answer period,

and great networking opportunities. The chapter presidents are all volunteers, advocates, and previous PEF members. The PEF Retirees also have a finance chair and finance committee. The PEF Retirees have retained the services of Peter DeCarlo, CPA, PLLC to assist with their annual financial regulations and requirements. With the popular dental plan, a dental committee was formed and a dental committee chair was appointed.

Notable Committee Information

The PEF Retirees have one voting voice on the PEF Executive Board and an appointed PAC committee member. PEF Retirees work together with the active PEF membership on political and mobilization efforts via phone banks, literature distributions, rally participation, and general volunteer action items.

Membership Benefits

Benefits in PEF Retirees include a dental insurance, movie ticket discounts, theme park and travel services, a legal plan, and the comfort of having a board of directors fight for what retirees have earned.

This year, we are pleased to announce that we have secured a new Vision Plan that retirees can purchase from Vision Works (Empire Vision). This is a first time benefit we are now able to offer our members that is affordable and can be purchased through Membership Benefits. Also, our dental plan will maintain the same rates, but we have changed providers beginning November 1, 2014. Sun Life will be the provider of our dental plan. There will be more dentists both within and outside of New York state that participate and the benefit will increase under the new provider.

Convention

The PEF Retirees participate actively at

the PEF Annual Convention with a booth fully staffed with retiree board members, PEF retiree volunteers and trained office staff. The convention is a great time for people to learn and ask about membership within the PEF retirees and all the issues that affect them.

PEF Retirees Executive Board

PEF Retirees generally have Executive Board meetings quarterly each year. At these meetings, the PEF retiree financials and membership activities are reviewed and discussed. Motions are adopted to improve membership benefits and protect the PEF retirees' benefits. Each chapter shares their own local meeting notes and ideas. Core retiree goals are to facilitate retiree political action and mobilization efforts, increase retiree operations, and increase retiree membership.

PEF Retirees Summer Conference

Every other year, the Retirees hold a Summer Conference that is moved around the state to different regions. This year, it was held in Syracuse at the Holiday Inn, Liverpool. We had several guest speakers, and workshops for the participants ranging from health care issues, Medicare Parts B & D, our Drug Prescription Program, to social media presentations.

Communicator Articles

The PEF Retirees submit an article for each *Communicator* publication. These articles are submitted and written by the Retirees statewide president and provide a wealth of knowledge to our members. Topics range from health care issues, retiree benefits preservation, dental options, membership benefits, and retirement. These articles also inform retirees of various issues and create awareness of developments in state retirement to social security

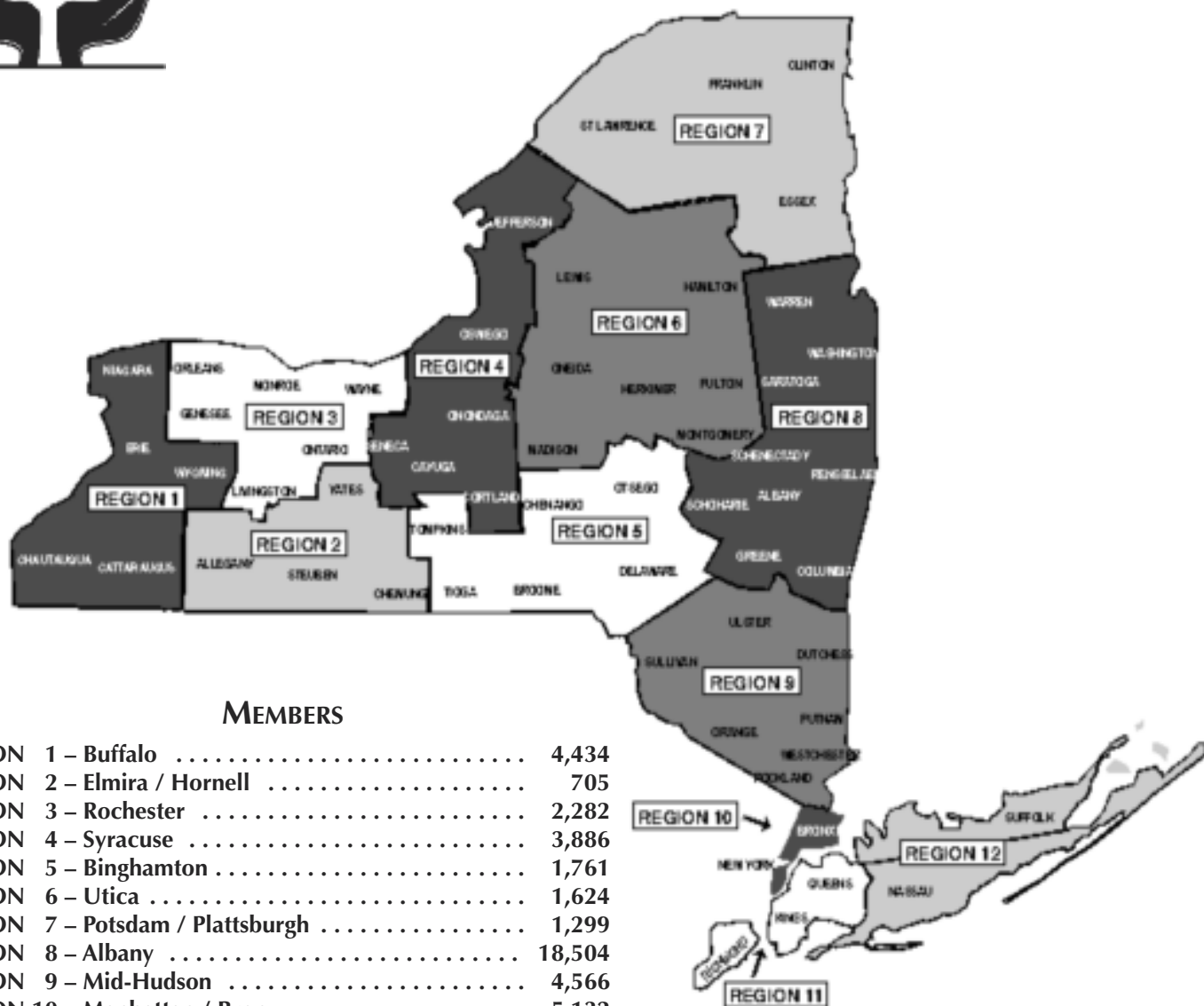
Labor Relations

Much of the responsibility of carrying out a directive to make our members the top priority of PEF falls to the Labor Relations Department. Labor Relations encompasses the Organizing and the Field Services Departments. The director of

Labor Relations supervises the directors of each of these departments, and also is the chief negotiator for the PS&T Unit negotiations.



MEMBERSHIP BY REGIONS



MEMBERS

REGION 1 – Buffalo	4,434
REGION 2 – Elmira / Hornell	705
REGION 3 – Rochester	2,282
REGION 4 – Syracuse	3,886
REGION 5 – Binghamton	1,761
REGION 6 – Utica	1,624
REGION 7 – Potsdam / Plattsburgh	1,299
REGION 8 – Albany	18,504
REGION 9 – Mid-Hudson	4,566
REGION 10 – Manhattan / Bronx	5,132
REGION 11 – Queens / Brooklyn / Staten Island	4,695
REGION 12 – Long Island	4,566
OTHERS	41

Regional figures as of 7/14

Contract Administration

The Contract Administration Department is primarily responsible for negotiation and statewide administration of the State/PEF Agreement for the PS&T Unit. The department is the day-to-day liaison with the Governor's Office of Employee Relations (GOER) on state-wide labor relations issues. The department also provides contract interpretation assistance and advice to union leadership and Field Services staff; provides advice and assistance to agency L/M committees on issues involving contract interpretation and/or negotiation of agency-specific understandings regarding our members' terms and conditions of employment; and represents the union in contract grievances at arbitration. The department also staffs: Executive Level Labor/Management, the Joint Committee on Health Benefits, the Joint Advisory Board for the Family Benefits and Employee Assistance Programs, the Albany Parking Committee and the internal PEF Grievance Appeals Committee. One department member also serves as the union's designee on the Statewide Performance Evaluation Appeals Panel. Notable activities of the department this year included the following:

PS&T Unit Contract Enforcement and Administration

In any year, Contract Administration is deeply involved in enforcement of the terms of the PS&T Unit Agreement, both through day-to-day advocacy with GOER, and through representation of the union in the contract grievance process. Contract Administration has central responsibility for administering the Article 34 contract grievance process at Steps 3 and 4. This includes: working with Field Services to review grievances prior to advancing them to Steps 3 and 4; day-to-day contact with GOER about pending grievances; and, representing the union in those grievances at arbitration.

A critical component of the contract grievance procedure is the Triage and Expedited Arbitration process. This process provides a means of resolving contract grievances more expeditiously than is the case in full arbitration. The Triage and Expedited Arbitration process is the primary means through which we resolve the myriad individual grievances filed by our members that reach Step 3 and 4 of the contract grievance process. Department staff meet regularly – typically bi-weekly – with representatives from the Governor's

Office of Employee Relations and our Triage Arbitrator in Triage to present, argue and attempt to resolve individual contract grievances. The vast majority of the contract grievances we handle are resolved in our Triage and Expedited Arbitration process.

There are occasions, however, in which grievances cannot be effectively resolved through Triage and Expedited Arbitration. That typically occurs in state-wide class action grievances which present significant contract interpretation questions. This year, the department's work included continuing significant work on arbitrations of ongoing disputes arising during the last round of negotiations and regarding the State's implementation of the 2011-2015 Agreement. These disputes are discussed below.

- We recently received a favorable decision in our grievance challenging how the state's calculated retroactive NYSHIP premium share increases for October and November, 2011 following the settlement of the 2011-2015 State/PEF Agreement. The state calculated retroactive premium owed based on NYSHIP enrollment in January 2012. We argued this calculation should have been based on NYSHIP enrollment in October and November, 2011. The arbitrator agreed with us and held that the state violated Article 9 of the State/PEF contract when it calculated the retroactive premium based on January 1, 2012 enrollment. As a result, class members who either changed enrollment during the November, 2011 open enrollment period or enrolled in state health insurance for the first time between October and January, 2011, and had premium contributions over withheld as a result, are entitled to have those monies reimbursed. Based on data introduced at hearing, we believe there are close to 1,000 members entitled to refunds of varying amounts depending on each individual's enrollment history. We are currently discussing with the state how best to implement the award and will provide updated information as it becomes available.

- We recently received a favorable decision in our grievance challenging the state's failure to pay the \$1,000 individual coverage opt-out incentive to eligible employees who have "other coverage" through a state-employed family member. The arbitrator ruled the state violated Article 9.2(j) of the 2011-2015 State/PEF

Agreement when it denied certain otherwise eligible PS&T Unit employees the opportunity to opt-out of their own health insurance coverage in favor of dependant coverage provided by a State-employed family member. The arbitrator agreed with our argument that the term "other coverage" as used in Article 9.2(j) meant coverage other than an employee's own individual coverage as an enrollee. The arbitrator rejected the state's argument that the parties agreed to exclude other state-provided NYSHIP coverage available to the employee through a state-employed family member. The arbitrator directed that the state begin allowing employees who meet the eligibility criteria contained in Article 9.2(j) to opt-out of their own coverage in favor of a family member's state-provided NYSHIP coverage. The question of appropriate retroactive remedy for employees who should have been permitted to opt-out previously was bifurcated during hearing and remains to be resolved. The state is currently reviewing the decision to determine how to implement the award. We are discussing this with the state and will provide updated information as it becomes available.

- We have completed hearing and briefs on our grievance challenging the state's decision to apply the Deficit Reduction Program to time worked by certain of our members in excess of a regular full-time schedule. This included withholding of Deficit Reduction Pay (DRP) from both extra service work performed by PEF represented members at different facilities or agencies than their own. It also included summer employment of 10-month teachers. As a result of the state's actions, certain of our members had more than 9 days of DRP withheld from their pay. We argued that this was a violation of Article 21 of the 2011-2015 State/PEF Agreement. We anticipate a decision from the arbitrator shortly.

- We have completed the union's case at arbitration in our challenge to the state's refusal to provide either a tuition voucher or tuition reimbursement program to PEF represented employees during the life of the 2011-2015 State/PEF Agreement. The state asserts that an express agreement was reached during the 2011 negotiations to terminate the tuition program for the life of the 2011-15 Agreement. We dispute this.

Article 15-Professional Development Committee funding for professional development programs, including the tuition voucher and reimbursement programs, was reduced to help insure that PS&T Unit members were fully repaid for all nine deficit reduction leave days. We argue that while this reduction limited the Article 15 Professional Development Committee's ability to fund professional development programs, the express agreement to reduce funding did not compel complete termination of the tuition program. In fact, existing contract language supports our argument that the parties understood that some tuition program would continue. The state is now presenting its case at hearing and anticipates that multiple days of hearing will be necessary.

- Unfortunately, we recently received an unfavorable decision from in our grievance alleging that Articles 9, 10, 14, 15 and 18 of the 2007-2011 Agreement were violated when the state failed to seek new appropriations to continued funding for the various Joint Contract Committees between April 2 and December 31, 2011 following the expiration of the 2007-2011 Agreement. The arbitrator held that the grievance was not arbitrable because the State's obligation to continue Joint Committee funding through December 31, 2011 appeared in a side letter contained in Appendix III to the 2007-2011 Agreement and not in the language of each of the Articles grieved. The arbitrator relied on the preamble to Appendix III which provides that Appendix III side letters are not independently subject to the Article 34 contract grievance procedure. In doing so, he rejected our argument that the "no sunset" side letter on continuation of committee funding was appropriately used to interpret and apply the language of Articles 9, 10, 14, 15 and 18 of the 2007-2011 Agreement and that the state's failure to obtain new appropriations to fund Joint Contract Committee programs between April and December 2011 could properly be grieved as a breach of those Articles.

Unit Determination Process

Once each contract term, The Taylor Law provides a brief period prior to expiration of the contract during which the union may file a petition with PERB challenging the state's decision to designate certain positions as Managerial/Confidential (M/C) or Casual and argue that those positions should be included in the Professional, Scientific and Technical Services (PS&T) bargaining unit. This process allows us to

protect against the erosion of the PS&T Unit that occurs when the state shifts our work to non-PS&T Unit employees. After consultation with PEF leadership in each agency regarding which positions should be challenged, Department staff prepared and filed the 2014 Open Petition with PERB in August.

In 2013, we reached agreement with the state on a partial settlement of the 2010 Open Petition that placed 250 employees into PEF's bargaining unit. However almost immediately thereafter, the state moved to withdraw from and invalidate that settlement. In June, PERB denied the state's request to withdraw from that settlement. However, the state has not complied with PERB's decision placing those 250 employees into the PS&T Unit and has filed a lawsuit seeking to overturn it. That lawsuit is still pending. Following that dispute, hundreds of positions remain at issue and unresolved in the 2010 Open Petition. Those positions have been included in our August 2014 Open Petition filing.

2015 PS&T Unit Negotiations

A key function of Contract Administration Department staff is providing professional advice assistance to the PEF contract team in each round of negotiations. This includes both team training and proposal development prior to negotiations; presentation and negotiation of proposals at negotiations; providing advice and counsel to the team; drafting contract language; preparation of ratification materials; and, preparing the final agreement for printing.

In anticipation of upcoming negotiations, the Contract Administration Department is collecting suggestions from PEF members regarding what they would like to see in the next contract. These suggestions will be presented to the 2015 bargaining team for review and consideration as we prepare for negotiations. Members who have specific proposals that they would like to have the bargaining team consider may e-mail those proposals to the Contract Administration Department at 2015contract@pef.org. In addition, the 2015 Contract Survey is posted on the PEF webpage. Members who have not already done so should be encouraged to complete that survey. Finally, the pre-negotiations Nurses survey which is required by adopted PEF Convention Resolution is also available to all PEF-represented nurses to complete.

Other Bargaining Unit Negotiations

Contract Administration provides negotiations support for our bargaining units at the Albany County Probation Department, the Albany County Housing Authority, the NYS Canal Corporation, Eastern Niagara Hospital, National Development and Research Institutes, Inc., and Allegany County. This year, the Department continued to provide advice and assistance to our bargaining teams at: the NYS Canal Corporation, Eastern Niagara Hospitals, and Allegany County. The Canal Corporation and Allegany County teams are battling management demands for significant health benefits concessions. The Eastern Niagara team is facing management demands to sunset their defined benefit pension and substitute a 403(b) defined contribution plan. At Eastern Niagara, we have also been receiving assistance from SEIU international staff in evaluating the hospital's fiscal solvency and the seriousness of the threat this presents to our member's existing pensions and job security. Finally, we are also assisting the Albany County Probation Department team in their negotiations which commenced in March. Initial proposals have been presented by both sides.

Health Benefits

Department health benefits staff works to assure PS&T Unit members access to benefits provided by the New York State Health Insurance Program (NYSHIP). This includes: staffing the Joint Committee on Health Benefits; providing information and assistance to members with health benefits concerns; providing technical assistance to the PEF negotiating team; and, monitoring implementation of health benefits changes once negotiations conclude. As always, significant portion of the health benefits staff time involves assisting our members with individual health benefits coverage issues. This year, in addition, health benefits staff also participated in the Empire Plan Mental Health and Substance Abuse Program contract procurement process; participated in the annual HMO review process; continued to monitor federal Affordable Care Act implementation as it related both to NYSHIP and health benefits coverage provided to the other bargaining units we represent; prepared memorandum to union leadership and articles for The Communicator; and, updated the PEF Website Health Benefits webpage with health benefits information for our membership

Field Services

Field Services central function is to protect the bargaining unit member's and the Union's rights under the Collective Bargaining Agreement, applicable laws, rules and regulations through a variety of means including negotiations, grievance handling, Taylor Law Improper Practice processing and otherwise exercising their expert labor/management skills in achieving gains for PEF and its' membership.

In 2014, there were thirty professional full-time field representatives working out of twelve field offices across the state. Each field office has administrative staff assigned to support the organization's activity. The field services of PEF regions are overseen by the Director of Labor Relations and two Directors of Field Services are responsible for the direct supervision of specific Regions. Jim Hair, Director of Labor Relations, in addition to his overall responsibilities, directly supervises Regions 6-9; Mike Farrell, Director of Field Services, directly supervises Regions 1-5 and Blair Burroughs, Director of Field Services, directly supervises Regions 10-12.

Critical components of a field representative's activity would include the following:

- Advise and assist Shop Stewards and PEF represented employees regarding workplace related matters.
- Provide counsel in a timely manner to employees and PEF leaders regarding their rights and possible options.
- Represent grievants in disciplinary matters up to and including arbitration, save termination cases wherein PEF provides an attorney for the arbitration (Note: Since the last convention, as of July 23, 2014, this involved 426 separate Notices of Discipline ["NOD"]). This includes representation at interrogations and securing stipulations of settlement,

where appropriate.

- Represent members, conditioned on meeting PEF's requisite for such representation, at Civil Service Law Section 72 hearings.
- File Improper Practice Charges and represent PEF at the Public Employment Relations Board ("PERB") for alleged violations of the Taylor Law.
- Function, when assigned as the Agency-Level Labor/Management ("L/M") Field Rep, as the expert adviser to the respective Agency-Level L/M team on labor relations matters, attending the pre and formal L/M meetings.
- Secure written agreements which would include Memorandums of Understanding and Memorandums of Agreement covering vacation, shift and pass-days, overtime, standby-on call and L/M meetings.
- Provide expertise with regard to the PEF Contract, the Taylor Law, the NYS Attendance Rules and the Fair Labor Standards Act.
- Act as a primary liaison for referrals to appropriate PEF Departments (e.g., Health and Safety, Contract Administration, Civil Service Enforcement, Policy Analysis, Public Relations, Organizing) on behalf of our activists and members.
- Identify violations of the contract, assist the shop stewards with the grievances; and where necessary, actually craft, file and process grievances through Step Three.

During the past year, PEF Field Services staff have, in brief:

- Responded to numerous requests for information and support;
- Lodged many complaints with employers on behalf of our members' best interests;
- Filed and processed numerous of contract grievances, including, as of July 23, 2014, 71 that were appealed

to Step 3/GOER since the last convention;

- Filed and processed numerous Article 17 (out-of-title work) grievances, including, as of July 23, 2014, 156 that were appealed to GOER since the last convention;
- Worked with elected leaders and PEF staff in campaigns to fight for members rights;
- Processed, as of July 23, 2014, 426 grievances challenging NODs and have secured numerous negotiated Stipulations of Settlements since the last convention;
- Acted as lead advocate in hundreds of interrogations;
- On October 1, 2013 Field Services had 22 open Improper Practice Charges; as of July 23, 2014 there were roughly 20 additional Improper Practice Charges filed with PERB. In short, as of July 23, 2014, of the 42 Improper Practice Charges, around 10 are closed (most through secured settlements/resolution of the issues) and about 32 remain open;
- Trained shop stewards and activists;
- Prepared numerous legal, civil service enforcement and contract administration intakes;
- Provided representation during lay-offs and facility closures; and
- Represented numerous members in matters surrounding Civil Service Law Section 72 (e.g. involuntary medical leave).

Oganizing

The purpose of the Organizing Department is to build the power of the union.

Organizing is responsible for rendering assistance to regions and divisions with organizational development and mobilization support. The department is also charges with developing PEF's capacity to organize internally and externally. The department also has COPE campaign responsibilities and does logistical support for political action. Divisions elections is part of the Organizing Department.

The Organizing Department was tasked with planning the promotion, logistics and turnout for the *Save Our Services* rally in the Well of the Legislatvie Office Building on January 29. All department staff worked on rally preparation. We drew plans and a budget for all of the components of the rally from turnout and promotion and petitions to transportation, logistics and platform. To implement the plan, we required the cooperative engagement of the leadership, Regional Coordinators and PEF departments and staff in the field offices. We are extremely grateful to the twenty-two staff volunteers who helped on the day of the rally to make the rank and file membership participation a highly positive and encouraging experience. The experience and effort of the organizing staff proved to be a tremendous asset to the success of the event. The solidarity of all the unions, the AFT president, AFL-CIO leaders and numerous politicians made it a very positive event.

The department staff includes the organizer assigned to the statewide Nurses Committee, Nancy Wolff. She provides support and assistance to statewide nurse's committee activities. During the year, this included liaison and logistical coordination with other unions representing nurses to arrange constituent lobby visits on Health Care Worker Lobby Day in Albany. Nancy is an expert in labor action logistics. She provides support and is a clearinghouse for communication of nursing issues to L/M chairs, council leaders and field representatives in assigned to worksites where nurses work.

Organizers provide steward and leadership training on organizing throughout the state. Since the last PEF

convention, Organizing staff taught the organizing section at thirteen regional shop steward trainings. We developed a training on the legislative history of labor winning on its values in coalition with other social groups and how that relates to COPE and the current political economy presented at six regional leadership conferences. At two of those conferences, Denise Young, who is based in the Region 3 office, presented on *Save Our Services* strategies and tactics and provided support for the conferences of regions 1 to 4 and regions 5 and 6. She regularly does steward training in western New York regions. Denise assisted with SOS activity and contract campaigns as requested.

Elric Kline is the organizer based in the PEF headquarters. Elric was lead developer for a political persuasiveness training we will be using going forward. Grounded in his political campaign manager experience, this training is aimed at greatly enhancing the ability and value of all PEF political campaign volunteers. The idea is to make PEF members the most valuable volunteers in NY state political campaigns. Elric continues lead development for external organizing and does activist recruitment when requested. His expertise in data management allowed us to customize our most recent member phonebanking for maximum effect.

The department responds to requests for organizational support and assistance from divisions including targeting activists for recruitment to fill vacancies where there is no one stepping up. Omar Garcia provided support to the campaign to Save Suny Downstate Medical Center and coordinated with other unions and community groups in successful rallies and a three-day fast in front of the medical school by Brooklyn's religious leaders. Omar has expedited communication and organizational development support to L/M Chairs, division officers and field representatives.

Furthering the department's purpose of building the power of the Union the department continues its relationships with SEIU public division staff and SEIU public employee local unions in the Northeast including preparation for the consequences of the *Harris v Quinn* decision. Staff

continue to attend meetings and training seminars sponsored by the AFT.

The department's responsibilities expanded to include the Divisions Elections Department beginning in the summer of 2013. The Organizing Department Director now serves as staff for the Divisions, Special Elections, Delegates Elections, Credentials and Triennial Elections Committee. The staff supported nine Divisions Committee meetings, the Delegate Committee meeting and ballot count. The department director worked with the Triennial Elections Committee to review the 2015 Triennial Election Rules. The members of the committee met for two days and made a comprehensive recommendation to the PEF Executive Board which adopted the 2015 Triennial Election Rules at the August 15, 2014 Executive Board meeting. Mr. Kevin Conley brings many years of PEF leadership experience to the role he now fills as Divisions Coordinator. He joined the staff in late July to handle the expanded workload. Jessica Carpenter is acting in the role of Divisions Information Assistant.

During the year the Divisions Elections Department conducted 224 elections, of which 25 were Special Elections and 199 regular and vacancy elections of stewards and council officers. The department also conducted the petitioning process for the AFT Convention delegate seats.

The 2014 Convention Delegate election was conducted in 258 constituencies for a potential of 1006 delegates, 844 valid petitions were submitted, 39 constituency elections went to balloting to elect 235 delegates and 486 petitioners were declared elected without opposition. There are 120 Executive Board, officer and trustee delegates for a total of 847 delegates as of this writing.

The Department Director worked with the Triennial Elections Committee to review the 2015 Triennial Election Rules. The members of the committee met for two days and made a comprehensive recommendation the Executive Board and which adopted the 2015 Triennial Election Rules at the August 15, 2014 Executive Board meeting.

Membership Benefits

The PEF Membership Benefits Program (PEF MBP) Trust is a separate entity from the union. The Trust is governed by a Board of Trustees and is managed by an administrator, who reports to the trustees. Union dues are never used to fund the operations of the Membership Benefits Program.

PEF MBP offers dues paying PEF members and retirees a wide variety of statewide and regional benefits. Programs range from group insurance and legal plans to travel planning, discounted movies, theme parks, department stores, restaurants and much more. The mission of the Program is to provide exemplary member service, quality programs that are thoroughly researched and benefits that enrich the lives of our members.

The Program has experienced financial stability, benefit program expansion and increased member communication during the past year.

Financial Stability and Administration
A thorough assessment of the Program's spending has been completed and cost cutting measures have been implemented over the past year. The trustees continue to focus on saving program funds where possible and using those funds to provide additional benefits for the members. Shared expenses between the Program and PEF have been reviewed and allocation studies completed to assure compliance. Infrastructure upgrades were completed to bring MBP's IT software and hardware up to date.

Benefit Program Expansion
Adding new benefits that appeal to a broad spectrum of members has continued to be the focus. With the understanding that PEF represents members in many locations with varying interests, staff has been researching and identifying new benefits around the state.

Three statewide programs were introduced during the last year:

- **AFLAC Accident Indemnity Advantage** -- a 24 hour accident only insurance that pays a set benefit amount per covered occurrence. Coverage is based on the level of treatment the insured receives. The plan is a supplemental coverage not intended to replace the existing disability insurance and is not disability insurance.
- **AFLAC Cancer Care Preferred or Classic** – coverage that will pay a cash benefit upon initial diagnosis of a covered cancer, with other benefits payable throughout treatment.
- **Emergency Travel Assistance and Identity Theft Protection** – the program is through Assist America and is free to active dues paying members and any participant in our Term Life Insurance.

In addition, the following **new regional**

discounts were presented to the membership:

- NYS Fair
- Kings Dominion, Virginia
- Siena Basketball
- Buffalo Sabres
- Michael Bolton, Bronx
- Maple Ridge Ski
- Utica Comets
- Jersey Boys on Broadway
- Rock of Ages on Broadway
- Wicked on Broadway
- Landmark Theatre
- NY Mets
- NY Yankees
- CVS Pharmacy
- Cracker Barrel
- Dicks PGA Open
- Irish Heritage Museum
- Syracuse Football

Membership Outreach

Program staff attended approximately 110 meetings, events or benefits fairs during the past year to actively meet with members to discuss the benefits. PEF leaders are encouraged to invite our representatives to your events and the Program will reimburse PEF divisions \$2.00 per member for food purchases if one of our staff has the opportunity to speak at a division meeting.

Many members continue to benefit from the advantages of being a part of our on-line community. Members that sign up for email updates receive alerts on new benefits, monthly "eNews" with upcoming events and special offers that become available. Anyone wishing to be



part of the on-line community can sign up on at www.pefmbp.org

A new communication tool MBP launched this spring was Facebook. The list of followers has steadily grown and provides members with a source for instant updates and access. The page can be found by searching “PEF Membership Benefits Program.”

Additional noteworthy activity during the first year is the following:

Discount Ticket Sales

Discount tickets continue to be an extremely popular benefit. Since October 1, 2013, members placed 43,000 orders amounting to more than \$4 million in sales. Currently, the Program offers 216 different types of tickets including amusement park, sporting events, gift cards, movie tickets and ski resorts. Contracting with new suppliers remains an ongoing endeavor and manages to bring several new items annually.

PEF Travel

PEF Travel is an agency owned by the PEF Membership Benefits and provides

members with a 5 percent rebate on travel packages. Members have continued to use the expertise of PEF Travel’s associates to help them book their vacations. With sales of more than \$2.7 million, the agency booked over 3,000 travel packages and cruises during the past year alone.

A business analysis of the agency was performed during the last year and several operating and marketing



strategies were used to re-organize the agency.

Targeted marketing, rebranding, website revisions and the use of social media was determined to be focal points of a revised marketing plan for the agency.

Operating processes are being streamlined and fine tuned in an attempt to assist staff with work flow. Travel specials and deals are now being searched and actively promoted.

Looking forward to the year ahead

The fall of 2014 will greet members with a Term Life open enrollment and rate decrease. Informational packets will be sent in the beginning of September with social media and *Communicator* ads to follow.

The Program will also be working with the PEF Retirees to provide billing support for the new retiree dental and vision plans

Market research is being planned to help identify new programs and benefits for the members and to help the Program more effectively communicate with members. In addition, existing programs will undergo analysis to determine any changes or updates that can be made to add value to the benefits.



PEF Regional Offices

ALBANY – Region 8

(518) 785-1900 / 800-342-4306
FAX (518) 785-1814

BINGHAMTON – Region 5

(607) 785-1699 / 800-724-4998
FAX (607) 786-5749

BROOKLYN – Region 11

(718) 637-2019 / (866) 897-9775
FAX (718) 637-2024

BUFFALO – Region 1

(716) 853-3100 / 800-462-1462
FAX (716) 853-3109

HORNELL – Region 2

(607)324-6060/7911 / 800-724-5001
FAX (607) 324-3611

LONG ISLAND – Region 12

(631) 360-4360 / (800) 832-5284
FAX (631) 360-4373

MALONE – Region 7

(518) 483-5781 / 888-498-8532
FAX (518) 483-5786

MANHATTAN – Region 10

(212) 227-3132 / 800-522-8700
FAX (212) 964-3571

POUGHKEEPSIE – Region 9

(845) 473-5022 / 800-548-4870
FAX (845) 473-5053

ROCHESTER – Region 3

(585) 232-6980 / 800-724-5003
FAX (585) 232-6469

SYRACUSE – Region 4

(315) 471-2311 / 800-724-5004
FAX (315) 471-2382

UTICA – Region 6

(315) 768-0123 / 800-724-5005
FAX (315) 768-1360

PEF Headquarters Departments

518-785-1900 / 800-342-4306

FAX: 518-785-1814

Headquarters Hot Line.....555

Headquarters Voice Mail 553

Accounting 261	Health Benefits 283	Legis. Office Fax 518-432-7739
Accounting Fax 518-785-0892	Health & Safety 254	Voice Mail 515
Payroll confidential fax 408-786-1900	Health & Safety Fax 239	Mailroom 401
Civil Service Enforcement 280	Human Resources	Membership Benefits 243
Civil Service Fax 279	HR Confidential fax 518-218-9235	MB Fax 302 or 783-5339
Contract Administration 223	Labor Relations 425	Member Mobilization 227
Con. Admin. Fax 785-0525	Legal 241	MIS 221
Divisions 231	Legal Fax 785-1323	MIS Service 308
Divisions Finance 232	Legal Work Desk 249	Public Relations 277
Education & Training 328	Law Library 294	PR Fax 785-8174
Fax Machine 285 or 785-1814	Legislative Office 518-432-4003	President's Fax 783-1117
Field Office 228	800-724-4997	Retirees Office 289

Other Important Numbers

AAA/NYC 212-484-3220	EAP- staff 800-252-4555	PEF Travel 518-782-9045
AFT/Organizing/Albany 518-869-8173	GOER 518-473-8375	800-767-1840
AFT/Org. Fax 518-869-8957	Liberty Mutual Ins 800-734-6796	Fax: 518-782-9768
AFT/Wash. DC 800-238-1133	NYSUT/Albany 518-213-6000	PEF/PSTP 800-342-4306
Corporate Benefit 518-785-0115	800-342-9810	Scholarships 800-342-4306 x221
800-233-3394	PEF Info Hot Line 800-553-2445	SEFCU 800-727-3328
Fax: 518-785-0586	PEF Emergency Hotline .888-850-7409	518-452-8183
Defensive Driving 800-427-2365		SEIU/Wash 800-424-8592
EAP- members 800-822-0244		UUP 518-458-7935

