

Red Changes made by SWPAC/Executive board are noted with deletions in single brackets [] and additions with one underline.

Green changes made by the Legislative Office are noted with deletions in double brackets [[]] and additions with double underlines.

State Legislative Agenda 20[[19]]20

New York State Public Employees Federation, AFL-CIO

Affiliated with the American Federation of Teachers, AFL-CIO and
Service Employees International Union



[[Adopted at the 40th Annual Convention
October 21-24, 2018
Lake Placid, New York]]
Adopted at the 41st Annual Convention
September 15-18, 2019
Albany, NY

Adopted by SWPAC on 7/ 17/19
Adopted by the Executive Board on 8/7/19

Wayne Spence, President

Kay Wilkie *Secretary-Treasurer*
Adreina Adams, *Vice President*
Sharon DeSilva, *Vice President*
Randi DiAntonio, *Vice President*

PEF Legislative Department *90 State Street, Suite 1029*Albany NY 12207
(518) 432-4003/1-800-724-4997

1
2
3
4

President's Letter to be inserted here January 2020

Ensuring Quality Services

The Public Employees Federation (PEF) believes that the State of New York should provide for the general welfare of all of its citizens, and that it has an obligation to provide the highest quality of service, especially to those most in need. The quality of the state's public workforce is second to none, and if given the authority and the means, it can provide that high quality of service which the citizens of the state are entitled to receive.

PEF seeks to have sufficient funds included in the state budget, utilizing both state and federal resources, in a timely manner, to guarantee that all public services are delivered effectively, efficiently and at the highest level of quality, within a strong regulatory network with strict standards of accountability.

PEF seeks to have sufficient funds included in the State budget to fully fund and fill all PEF items included in the State budget.

PEF continues to support and lobby for the Maintenance of Effort Bill that requires the State to at least partially compensate the State University of New York (SUNY) Hospitals for their service to indigent populations and the unique, life-saving services they provide (burn units, trauma centers, etc.) **[[The bill passed both houses, and it went to the Governor for signature. The bill was vetoed by the Governor on January 10, 2014 and December 11, 2015. Most recently, this measure passed both houses of the Legislature in June of 2018.]]**

PEF will oppose any attempt to privatize SUNY or to increase the ability of SUNY to contract out employee services. In the vast majority of cases, public employees can do the job safer, cheaper, quicker, and better.

We will strive to ensure that standards of care and service remain high and that staffing levels in all State agencies are sufficient to meet those high standards and for emergency preparedness. This commitment includes improving nurse/patient, teacher/student and clinician/client ratios as well as maintaining staffing levels. In particular, PEF opposes reductions in staffing levels at the Office for People with Developmental Disabilities (OPWDD), the Office for Mental Health (OMH), and the State University of New York (SUNY) hospitals which would result in many of the state's most needy citizens receiving inadequate levels of care. PEF also opposes the use of private facilities by the Office of Children and Family Services (OCFS) as a lower quality alternative to state-run juvenile facilities. PEF is committed to ensuring that there is no reduction in services to these clients, and that the services are provided in most appropriate state-operated settings by professional state employees who have traditionally taken care of them.

Reducing funding to Medicaid programs will lead to decreases in health care for low income elderly individuals, people with disabilities, and parents and children. Medicaid cuts will negatively impact PEF members and hasten the deterioration of New York States' fiscal condition.

PEF supports improved funding of Medicaid and opposes cuts and/or re-distribution of funds that will diminish the quality of services provided by our members.

PEF is opposed to any diminishment of state services and reduction of state staff through the use of per diem contract employees, and to the privatization of government services, as well as the creation of public/private partnerships to own, operate or maintain public facilities and services. This includes, but is not limited to, attempts to reduce the level of state employee participation in the provision of employment services in one-stop centers, as well as any reduction in state-provided mental health and children's services.

PEF has introduced a cost-benefit bill each session since 2010. The 20**[[17]] 19** PEF bill required state agencies that want to contract out for personal services, including engineering services, over \$750,000 to conduct a cost-benefit analysis to determine whether the work could be performed at a lower cost by state employees. Our legislation passed both houses of the legislature in **[[June of] 2018 and was vetoed by the**

1 **Governor. The bill passed both houses of the legislature in 2019** and is currently awaiting consideration
2 by the Governor.

3
4 In order to maintain a competitive workforce of qualified, skilled professionals, the state must
5 continuously maintain and improve the skills and knowledge of employees through well thought out
6 workforce planning and professional development programs.

7
8 Professionals should be given the full authority they need to perform their jobs. Enforcement
9 personnel in various agencies, such as Tax and Finance, Parole, and Department of Environmental
10 Conservation (DEC), need to be able to do their jobs with their authority fully acknowledged by both the
11 state and all local authorities. When licensed services are needed, only licensed professionals should provide
12 those services. When hiring, transferring or promoting employees in the competitive class, appropriate eligible
13 lists should be used; no one should be given a permanent position without passing the appropriate civil
14 service exam nor should a provisional appointment be given to a person who failed the exam for that position
15 or who was deemed ineligible for that position or who was denied access to said exam based on his/her
16 failure to meet minimum qualifications. The “rule of three” should apply, and when a list is established for a
17 position held by a provisional employee, an appointment must be made from the list. Minimum competency
18 standards should be set for all exempt and non-competitive class positions.

19
20 PEF supports continuing a ban on the use of horizontal hydraulic fracturing to drill for natural gas in
21 New York State. PEF also supports prevention of human and natural resource exposure to hydraulic
22 fracturing fluids and wastes, in order to protect public health and the citizens of New York. PEF further
23 opposes New York State’s accepting hydraulic fracturing waste from other states.

24
25 **PEF supports environmentally responsible initiatives that reduce New York’s carbon**
26 **footprint and help guarantee clean air and water for generations to come.**
27

Protecting Employee Rights

PEF believes that all employees of the State of New York have the right to be treated with respect, dignity and fairness. They have the right to a workplace free of aggression, harassment, discrimination, random drug testing, unwarranted discipline, and retaliation for disclosing information to protect the public interest, health and safety. Employees have a right to expect their employer will respect their privacy, including data breaches of private health information, the confidentiality of information concerning them and their due process rights. PEF supports legislation to prohibit State agencies from using Section 61 of the Public Officers Law to issue subpoenas to persons or entities who are not State employees.

While PEF supports the protection of our most vulnerable New Yorkers, investigations conducted by the Justice Center for the Protection of People with Special Needs (“Justice Center”) continue to generate serious challenges for many PEF members working at numerous state agencies. PEF supports legislation that calls for the review of the mission and operation of the Justice Center to ensure that our members who work at the Justice Center and our members who are subject to investigation are treated fairly and are able to effectively do their jobs.

Employees have the right to expect that the Civil Service rules that affect hirings, promotions, layoffs, transfers and other aspects of holding state employment will be fair, supportive of the merit system, and open to public scrutiny. PEF will monitor and oppose the use of hiring practices designed to skirt civil service law and which are inherently subjective, such as the Selective Certification Hiring and Promotional process. So as to prevent these processes from negatively impacting the promotional potential of our members, PEF will seek avenues to reduce the states reliance on such subjective processes and encourage the state to create replacement processes that are more objective which include components that include criteria that can be measured and evaluated. They have a right to not lose their employment without just cause, and to be able to seek employment elsewhere without being restricted by the Ethics provision of the Public Officers Law. State employees also have the right to hold a second job during hours they are not working for the state, as long as no conflict of interest occurs.

PEF will fight against the continuing erosion of the Civil Service System. PEF would support changes to the Civil Service rules that would make testing and scoring of exams fairer and freer from potential manipulation. Test results should be reported quickly and the review process should be expanded. All hiring and promotions should be made from the appropriate Civil Service lists with priority over hiring of consultants 1099s and H-1Bs. The Department of Civil Service should have adequate funding and staffing to enforce the civil service law and administer the merit system promptly and efficiently.

When a reduction in workforce is contemplated, the appropriate transfer mechanisms are mandatory and must be utilized by state agencies, and employees shall be placed in positions based on seniority of permanent state service. Involuntary reassignment of a permanent employee should not be made if there are less senior or provisional employees in comparable positions at that same worksite. If an involuntary reassignment is made, the affected employee must be personally notified and given sufficient notice to put their personal affairs in order and to allow for a smooth transition of workload. Employees who refuse such reassignment shall have the same rights as employees who are laid off.

Retired employees who return to work on a part time basis should be treated as temporary workers and should not be credited with any seniority based on service prior to their return to work.

Finally, when an employee faces legal charges stemming from the performance of his/her duties, the state shall support that employee by providing any needed legal defense. If removed from employment and subsequently reinstated by court order, the employee shall be made whole. All employees who are required to hold professional licenses or other similar certifications as a condition for qualification for their Civil Service titles need to be free from reprisal if they fail to carry out instructions which in their professional opinion

1 violate or are contrary to their professional judgment or professional responsibilities, or if they report those
2 directives to a government agency.
3

4 [[PEF recognizes that our transgender members face discrimination and are not currently
5 protected by law. PEF supports the Gender Expression Nondiscrimination Act (GENDA) to protect
6 our vulnerable members from unfair treatment. The GENDA bill passed the Assembly in 2018. PEF
7 will continue to support this bill.]]
8

9 PEF will propose and/or support legislation making it illegal for any State agency to require, or even
10 ask a PEF member, or any State job applicant, for access to their social media account(s). PEF shall also
11 propose or support legislation to prohibit the consideration of any job applicant's social media profiles
12 and/or account information for purposes of employment, promotional opportunities, or disciplinary action.
13

Maintaining a Stable Public Workforce

PEF believes that maintaining a stable public workforce will ensure the provision of high quality services to the state's citizens. A stable workforce provides continuity of service and longevity of experience. While changes in the size and composition of the workforce always occur, proper management of these changes will result in fewer disruptions in the services being provided.

PEF is opposed to the contracting-out of work that state employees should be performing. However, since the state does engage in this practice, it shall be regulated by requiring a cost/benefit analysis and a review of the contractor's qualifications and track record prior to the signing of a contract. We introduced a new, more comprehensive cost benefit bill in 2016. Our legislation passed both houses of the Legislature in June of 20[[18]]19 and is currently awaiting consideration by the Governor.

Any hiring freeze imposed upon the New York State workforce shall be equally imposed upon private sector employers so that agencies and shadow agencies that are unable to hire state employees may not fill these same positions by contracting out with private entities.

Prevailing wages shall be paid by all contractors to their employees, and the state shall compensate its employees with salaries and per diems not less than contracted employees are paid for the same work. In high-cost areas of the state, state workers' salaries need to be adjusted to compensate for the cost of living.

In the event an employee will be the victim of a layoff, ample personal notice shall be given to allow for the smooth transition of workload and a better prospect for re-employment. In addition, an extension of the validity of all Civil Service lists beyond the four year limitation, and a restriction against using transfers in non-layoff situations to circumvent these lists, would ensure that both current and former employees remain eligible for future positions, as would forbidding provisional appointments within six months of the expiration of a list if a prior need existed.

PEF opposes, in principle, the use of public authorities, public benefit corporations or other quasi-public agencies. There are over one thousand of these so-called "shadow agencies" employing over one hundred thousand employees. The use of these entities to administer state or federal funds dilutes the level of public oversight, circumvents the use of merit system standards, and reduces the stability of the public workforce. This can, in turn, affect the quality of the work being performed. PEF will continue to advocate for legislative or administrative flexibility in situations where these structures are being considered to enable state agencies to make the changes necessary to maintain or improve the services that they currently provide.

In the event these so-called "shadow agencies" are created, they shall be subject to the same legislative and fiscal oversight as any state agency, and they shall not take over the responsibilities of a department of state government without legislative approval. Such "shadow agencies" shall not give positions to state employees as a means to circumvent Civil Service eligible lists, nor shall their employees supervise state employees. Finally, all new employees of these "shadow agencies" shall be deemed to be in the classified Civil Service and subject to the provisions of Civil Service Law.

PEF is opposed to state agencies being allowed to create non-profit, public benefit corporations in order to staff state owned facilities with private employees rather than state employees, such as the corporation created by SUNY Downstate in its takeover of Long Island College Hospital.

PEF also supports legislation which would set stricter limits on individual, corporate and political action committee contributions to campaigns, require all contributions to all types of political committees be disclosed, and that a system of public financing be established for all statewide, Assembly, and Senate positions.

1 [PEF will advance legislation to ensure that any hospital built on Stony Brook University's
2 Southampton campus shall be staffed by New York State Employees.] **PEF will oppose efforts to encroach**
3 **upon state owned and/or operated facilities. PEF will advance legislation to ensure that facilities**
4 **operated on state property shall be staffed by state employees. PEF will vigorously defend our**
5 **exclusive bargaining rights to ensure that services currently being provided by PEF members**
6 **continue to be provided by PEF members.**
7

8 PEF supports legislation which would require the State Department of Civil Service and any other
9 entity that gives examinations for public employment within the State of New York to require that alternate
10 date examinations due to Sabbath observance, other religious observance or any other reason be given to
11 applicants within 25 miles of the location where the primary date examination is given.
12

Reforming NYS Labor Law

PEF believes that the intention of state labor laws is to provide direction to both management and labor as to their respective rights and responsibilities. However, certain reforms are needed to promote responsiveness with regard to collective bargaining negotiations. These reforms include the passage of binding arbitration legislation, the setting of time limits regarding the resolution of contract impasses and improper practice charges, and the right of public employees to strike. In addition, injunctive relief should be expanded to include all improper practice charges, and all pay differentials should be considered collective bargaining issues. The recognition in law that equal work deserves equal pay would also aid the Department of Civil Service in making its salary grade determinations.

PEF opposes all efforts to restrict or circumvent the Triborough Amendment which ensures a proper balance between public employees and public employers in collective bargaining.

Improving Working Conditions and Benefits

[PEF believes that] [w]While working conditions in **some** state agencies are generally satisfactory, this is not consistently true from worksite to worksite. The state needs to continually monitor these conditions, and to take remedial action to improve them when necessary, using both state and federal resources. High on the list of priorities is ensuring that health and safety concerns are swiftly addressed. These can include ensuring that owned and leased buildings are properly built and maintained, asbestos hazards are abated, tight building syndrome precautions are taken, standards for indoor air quality are established and maintained, workplace violence is addressed through training, prevention and reporting, as well as ensuring employees can participate in agency health and safety committees.

For employees with duties and responsibilities outside of an office or facility, that the field conditions that these employees work in be reviewed by the appropriate state agency to ensure that they are safe, and that the employees are trained to recognize potential hazards or unsafe conditions and, when appropriate, all personal protective equipment that may be required is issued by the state.

For employees working in healthcare facilities, there is a need to protect patients' and employees' safety. In the 20[[18]]19 legislative session, PEF advocated and lobbied extensively for the Safe Nurse-Patient Ratio legislative Bill. This bill passed the Assembly in 2016. PEF will continue its advocacy for the Safe Nurse-Patient Ratio Bill. Additionally, PEF continues to advocate for our legislation which strengthens the no mandatory overtime law. The bill compensates nurses and penalizes agencies that continue to disregard the current law.

Improvements to the benefits that employees receive would correct some injustices in the current system. These would include the removal of certain inequities in the workers' compensation rules, correcting the inconsistency in the assignment of hazardous duty pay in those agencies which already provide this pay and the elimination of discrimination against certain classes of veterans with regard to health insurance coverage.

PEF is willing to work with the legislature to draft bills correcting these injustices. In addition, injuries and illnesses sustained while performing one's job should be acknowledged by the state, and the employee should be made whole regarding medical and/or legal costs which may result. The state should do what it can to assist the employee in his/her recovery, as well as provide two full years for that recovery before pursuing termination. In addition, the state should continue full medical coverage for families of all reservists called to active duty. PEF will continue to advocate for legislation to allow state employees eight hours per year of paid leave for the purpose of medical screening for cancer of any type.

In the 20[[18]]19 legislative session, PEF supported bills to require payment of full salary and medical expenses for Parole Officers, Revocation Specialists, Revenue Crime Specialists and Investigators who have Peace Officer status, injured in the line of duty as well as a bill that defines employment-related heart disease for Parole Officers. The Parole Officers Workplace Injury Parity bill did pass the Legislature in the 2017 legislative session. The Parole Officers' Heart Bill did not get two-house support this session. PEF will continue its support and advocate for this measure. PEF will advocate for issues regarding parity in other PEF high risk job titles.

State employees should be paid fair salaries that are at least equal to the average prevailing wage for their profession. PEF encourages legislation which would study prevailing wages for specific job titles, and then would increase the grade allocation of those titles with pay grades that are below the prevailing wage for that profession to the level of the prevailing wage.

PEF introduced legislation regarding a fair geographic pay differential similar to the federal locality pay tables for members in geographic work locations that have a high cost of living.

1 Maintaining a competitive, high quality, knowledgeable workforce requires a competitive wage which
2 will prevent loss of members and possible privatization if recruitment and retention diminishes.
3

4 PEF advocates for a bicycle commuter benefit as authorized by the Federal Bicycle Commuter
5 Benefits Act. The Federal Bicycle Commuter Benefits Act Law is a provision of the Internal Revenue Code
6 (IRC) that allows an employer to reimburse employees up to \$20 per month for expenses associated with
7 qualified bicycle commuting without having to pay (or withhold) payroll taxes on that sum.

8 There is no federal mandate that the benefit be provided. The IRC provision simply allows that IF
9 the benefit is provided, it can be provided on a pre-tax basis. PEF will pursue legislation to allow each
10 agency to enter into negotiations with management as part of the labor-management process to work out that
11 benefit.
12

13 PEF will oppose any restrictions on parking (e.g., permit system) until such time as all members have
14 access to subsidized parking within a quarter mile walk from their work location.
15

16 PEF supports [an increase to the] a state minimum wage which is more reflective of a living wage.
17 This would help to decrease the income inequality being experienced in our state. [The current minimum
18 wage puts a full-time worker with a family of four below the poverty line.]
19

20 PEF will support legislation that encourages New York State to purchase goods that are either made
21 in New York or the United States, rather than manufactured overseas.
22

23 Every public officer, employee of this state, employee of any county, employee of any community
24 college, employee of any public authority, employee of any public benefit corporation, employee of any board
25 of cooperative educational services (BOCES), employee of any vocational education and extension board, or
26 a school district enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred
27 sixty-seven, employee of any municipality, employee of any school district or any employee of a participating
28 employer in the New York state and local employees' retirement system or any employee of a participating
29 employer in the New York state teachers' retirement system shall be entitled to absent himself or herself and
30 shall be deemed to have a paid leave of absence from his or her duties or service as such public officer or
31 employee of this state, employee of any county, employee of any community college, employee of any public
32 authority, employee of any public benefit corporation, employee of any board of cooperative educational
33 services, (BOCES), employee of any vocational education and extension board, or a school district
34 enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven,
35 employee of any municipality, employee of any school district, or any employee of a participating employer in
36 the New York state and local employees' retirement system or any employee of a participating employer in
37 the New York state teachers' retirement system who has been determined to be non-essential for the duration
38 of any travel ban declared under article 2-B of the Executive Law for the municipality where they reside or
39 their work location.
40

41 For those who have been determined to be essential employees the appointing authority shall provide
42 them with credentialing of such designation and shall defend and indemnify those so designated for the
43 violation of any order issued under Article 2-B of the Executive Law.

Providing for a Well-Deserved Retirement

PEF believes that all state employees after giving their working lives to serve the public good, have earned, and deserve a secure and dignified retirement [after giving decades of their lives to serve the public good.]

[However,] [i]nflation and increased health expenses continually reduce[s] the standard of living earned over a lifetime of public service. [purchasing power of their state pensions every year. To combat this drain on a secure pension, several steps can be taken to give retirees the most money possible at retirement, as well as to allow them to reap additional benefit from the steady growth of the pension fund, to prevent any reduction in their health insurance benefits, and to ensure that all Professional, Scientific and Technical unit employees receive the same full range of retirement benefits.] PEF believes that steps can be taken to restore previous benefits. PEF will continue to support legislation [During the 2018 legislative session, PEF supported a bill] to prohibit [public employers from] the [diminishing] diminution of health benefits or employer contributions to health insurance premiums below the level employees paid as active employees. [The bill did not move in either house of the legislature. PEF will continue to advocate for this bill.] PEF will advocate to create and sufficiently fund [the] a Retiree Health Benefit Trust Fund, to pay for retiree health benefits.

[The primary steps involve equalizing the benefits among the various retirement tiers, reducing or eliminating the penalties associated with early retirement, improving the annual permanent cost-of-living adjustment (COLA) to pensions by making it equal to the full Consumer Price Index (CPI) and applied to each retiree's full pension, and allowing all vacation leave accruals, sick leave accruals and overtime to be counted towards the pension calculation. Members in all pension tiers should be able to include 30 days of vacation pay in their final average salary. PEF supports legislation to correct the inequities in all pension tiers such as the service credit amounts and additional years of service credit.] PEF believes that it is imperative to improve the cost-of-living adjustment (COLA) legislation, so that retirees can continue to have a dignified standard of living after their retirement. The COLA can be improved by adjusting the calculation percentage (Consumer Price Index-Urban), and the amount (\$18,000) used to calculate the COLA.

PEF also supports increasing the Disability and Survivor Benefits, by eliminating the 50 percent reduction of COLA's imposed on pension's of beneficiaries.

PEF supports legislation to correct the inequities in pension tiers including, but not limited to, service credit percentages and additional years of service credit. This can also include allowing all accrued vacation and sick leave accruals to be part of the final average salary used for the pension calculation.

PEF advocates for legislation to allow PEF members employed at the NYS School for the Blind and NYS School for the Deaf who are members in the Teachers' Retirement System to get pension service credit for unused sick leave at retirement on the same basis as is currently granted to members in the New York State and Local Employees Retirement System.

PEF will advocate for legislation enacting the "Rule of 80," which allows for retirement without penalty if age plus years of service is equal to at least 80.

PEF will advocate for legislation that corrects an inequity with regard to health insurance coverage for retired State employees. The legislation will allow employees who are vested with ten years of benefits eligible service but leave State service prior to retirement age to be able to defer their health insurance coverage eligibility and their sick leave credit to offset the cost of their health insurance until they retire.

1 **PEF believes that public service in the** [Any other provision that would allow retirees to maximize
2 their pension such as through transfer from other systems, the full crediting of]military, Peace Corps and
3 VISTA **(Ameri Corp)** [Service] **should be credited to member's years of service.**], increased disability and
4 survivor benefits such as the elimination of the 50 percent reduction imposed on the pension COLA of
5 survivors, the purchase of lost pension credits, the elimination of any limitation on retiree earnings, or the
6 elimination of taxes on pension contributions, would be a step in the right direction, as would exploring ways
7 to improve the state's deferred compensation program, establishing a retiree dental and optical benefit,
8 creating a retiree pre-tax healthcare flexible spending account, and reopening a window to allow for additional
9 tier reinstatement.]

10
11 **PEF supports raising and/ or eliminating the limitations on retiree earnings.**

12
13 **PEF supports allowing additional reinstatement to earlier pension tiers.**

14
15 All Tier III and IV employees who made 3% contributions to the retirement system for more than ten
16 years should receive two additional months of service credit for each year beyond the first ten years, upon
17 retirement. PEF has introduced legislation to enact this provision since 2001. We will continue to advocate
18 for this benefit.

19
20 PEF supports keeping the State Comptroller as the sole trustee of the state pension fund.