

Annual Report to the Delegates



**43rd Annual
PEF Convention**

**October 24–27, 2021
Niagara Falls, NY**

Contents

New York State Public Employees Federation 2021 Annual Report to the Delegates

Officers' Report.....	1
Secretary-Treasurer's Report.....	2
Consolidated Statement.....	3
Finance.....	6
Membership Information Systems (MIS).....	7
Special Events.....	8
Executive Offices.....	9
Divisions.....	10
Civil Service Enforcement & Research.....	12
Health and Safety.....	14
Human Resources.....	17
Office of General Counsel.....	18
Legislative.....	31
Communications.....	38
Statewide Facilities Management.....	40
Education and Training.....	42
Statewide Field Services.....	43
Organizing.....	45
Membership by Regions Map.....	46
Contract Administration.....	47
Retirees.....	49
Membership Benefits Program.....	51
Important Phone Numbers.....	53

Officers' Report

Welcome, delegates to PEF's 43rd Annual Convention in Niagara Falls! It is so great to be back with you in person after a tumultuous year.

This Annual Report captures the highlights of what your union accomplished since our virtual convention in October 2020. What it can't capture are all the heroic things PEF members did in the last 12 months to deliver New York's public services in the face of historic challenges – from life-or-death struggles in SUNY hospital wards, to processing an unprecedented number of unemployment claims, to maintaining public safety on our streets and order in our correctional facilities, to providing mental healthcare for thousands struggling during the pandemic, and all the other essential services PEF members do every day.

As always, we know that challenges lie ahead, but we also know the State is in a unique position to enact meaningful changes with a new executive team. We are committed to taking advantage of this moment in order to make the theme of this year's convention a reality – "Fund Our Future for a Thriving New York."

Thank you for your dedication and activism these past 12 months and here's to a much brighter future for all New Yorkers.



Wayne Spence

WAYNE SPENCE
President



Joe Donahue

JOE DONAHUE
Secretary-Treasurer



Sharon V. Desilva

SHARON V. DESILVA
Vice President



Randi L. DiAntonio

RANDI DIANTONIO
Vice President



Darlene Williams

DARLENE WILLIAMS
Vice President

Secretary-Treasurer's Report

Welcome to the 2021 NYS Public Employees Federation Convention! I hope that you are not only able to enjoy Niagara Falls, but are also able to learn about, and participate in, all that the convention has to offer.

Earlier this year, I was honored when PEF President Wayne Spence asked me to run for Secretary-Treasurer, taking the place of Kay Allison Wilkie, who was retiring. I have watched with appreciation at the continued progress of increasing transparency and accountability regarding the finances of PEF. Thanks to all the hard work and dedication of S/T Wilkie, PEF Staff, and the Budget Advisory and Financial Compliance Committee, (BA&FCC), the vision has progressed, and the accomplishments have been many. I plan to continue to advocate for financial integrity and responsibility, while continuing to communicate our efforts to the membership. Of course, communication should be a two-way street. I have always believed that open, respectful, communication is a cornerstone in any relationship.

Building on that, working together is also very important to accomplishing one's goals. Teamwork and cooperation create a synergy, which can exponentially increase the ability to affect a successful outcome of any endeavor. To that end, I would like to thank S/T Wilkie, Director of Finance Ray Brown, MIS Director Joe Cocci, Special Events Director Kim Partridge, and my Executive Assistant Janay Anderson, for sharing their insight, knowledge, and camaraderie, during my transition to my new position. They, as well as all the other PEF staff and members of the executive team, have been an invaluable asset as I navigate my new responsibilities. I am confident that going forward we are destined to continue the good works that the Spence Administration has inspired.

I have repeatedly made it clear, whether face to face, at Executive Board, or on any type of social media, that my door is always open. I will try to be open and consistent in all that I do. I am always interested in other viewpoints, suggestions, even criticism. As long as they are constructive. It is easy to tear something down. Building something that will last is much more

difficult. I speak frequently about the importance of cooperation, respectful communication, and working together.

I am a firm believer that our similarities far outnumber our differences. These days, it seems as if my belief is being challenged. Whereas, in the past people could have differences of opinions but still be civil, lately it seems as though there is a "My way or the highway." mentality. Any difference of opinion is not tolerated. Polite discourse seems to be a vanishing art. The polarization is unsettling, and widespread. It is occurring at all levels and arenas. I can assure you that my office will not conduct business in this manner. I have spoken to my staff about the necessity to show respect to one another but, also, that they should expect to be respected as well. Like communication, respect should be shared.

As this is my first convention as Secretary-Treasurer, a lot of what I am presenting continues the efforts undertaken by my predecessor. Efforts like enforcing and clarifying existing policy, improving accountability, and stressing fiscal responsibility. Please review the resolutions being presented to the body, as well as the financial documents and department reports. Please try to participate in the scheduled workshops. Feel free to share the information that you have received here, with your fellow PEF members when you return home.

As always, any input you can offer is appreciated. Remember that together, PEF Does It!

In Solidarity,

Joe

NEW YORK STATE PUBLIC EMPLOYEES FEDERATION AND SUBSIDIARY

**CONSOLIDATED STATEMENTS OF FINANCIAL POSITION
MARCH 31, 2021 and 2020**

ASSETS

	<u>2021</u>	<u>2020</u>
CURRENT ASSETS:		
Cash and cash equivalents	\$ 9,354,958	\$ 7,106,364
Investments	12,216,984	10,408,870
Membership dues receivable, net	174,122	1,017,993
Due from related parties and other receivables	1,615,796	1,509,617
Prepaid expenses	438,317	371,848
Total current assets	<u>23,800,177</u>	<u>20,414,692</u>
PROPERTY AND EQUIPMENT, NET	<u>4,684,462</u>	<u>1,971,404</u>
OTHER ASSETS:		
Restricted cash - COPE	101,467	97,461
Deposits	324,892	324,723
Total other assets	<u>426,359</u>	<u>422,184</u>
	<u>\$ 28,910,998</u>	<u>\$ 22,808,280</u>

LIABILITIES AND NET ASSETS (DEFICIT)

CURRENT LIABILITIES:		
Accounts payable	\$ 1,109,699	\$ 1,282,805
Capital lease obligation, current portion	77,533	21,449
Employee organizational leave	1,047,813	794,893
Accrued liabilities	1,672,463	1,479,403
Accrued vacation	909,704	741,368
Total current liabilities	<u>4,817,212</u>	<u>4,319,918</u>
LONG-TERM LIABILITIES		
Capital lease obligation, net of current maturities	312,294	-
Accrued post-retirement benefits	12,292,603	12,529,383
Total long-term liabilities	<u>12,604,897</u>	<u>12,529,383</u>
Total liabilities	<u>17,422,109</u>	<u>16,849,301</u>
NET ASSETS (DEFICIT):		
Net assets (deficit) without donor restrictions:		
Designated by board	6,989,185	6,070,807
Post-retirement costs recognized in net assets	(78,859)	(956,353)
Undesignated	4,477,096	747,064
Total net assets (deficit) without donor restrictions	<u>11,387,422</u>	<u>5,861,518</u>
Net assets with donor restrictions	<u>101,467</u>	<u>97,461</u>
Total net assets (deficit)	<u>11,488,889</u>	<u>5,958,979</u>
	<u>\$ 28,910,998</u>	<u>\$ 22,808,280</u>

The accompanying notes are an integral part of these statements.

NEW YORK STATE PUBLIC EMPLOYEES FEDERATION AND SUBSIDIARY

**CONSOLIDATED STATEMENTS OF ACTIVITIES AND CHANGE IN NET ASSETS
FOR THE YEARS ENDED MARCH 31, 2021 AND 2020**

	<u>2021</u>	<u>2020</u>
CHANGES IN NET ASSETS WITHOUT DONOR RESTRICTIONS:		
REVENUES AND GAINS:		
Membership dues	\$ 35,902,820	\$ 36,242,228
Less:		
Divisional distributions	465,876	1,302,061
Per capita taxes, net	9,419,372	9,714,382
Affiliation dues	<u>299,492</u>	<u>298,012</u>
Net Membership dues	25,718,080	24,927,773
Other support:		
Interest and dividend income	203,020	212,431
Net unrealized and realized gains	1,461,099	146,904
Grant income	531,100	575,338
Advertising income	16,528	32,815
Other income	<u>963,566</u>	<u>1,164,134</u>
Total other support	<u>3,175,313</u>	<u>2,131,622</u>
Net assets released from restrictions:		
Satisfaction of program restrictions	<u>180,795</u>	<u>160,835</u>
Total revenues, gains and other support	<u>29,074,188</u>	<u>27,220,230</u>
EXPENSES:		
Salary and benefit expenses	18,825,042	18,186,307
Staff travel and related expenses	344,091	642,619
Program related expenses	653,494	2,641,272
Operating expenses	4,353,688	4,593,230
Depreciation	<u>249,463</u>	<u>285,375</u>
Total expenses	<u>24,425,778</u>	<u>26,348,803</u>
CHANGE IN NET ASSETS WITHOUT DONOR RESTRICTIONS BEFORE OTHER CHANGES IN NET ASSETS WITHOUT DONOR RESTRICTIONS	4,648,410	871,427
OTHER CHANGES IN NET ASSETS:		
Post-retirement changes other than net periodic benefit costs	<u>877,494</u>	<u>(2,296,333)</u>
TOTAL CHANGE IN NET ASSETS WITHOUT DONOR RESTRICTIONS	<u>5,525,904</u>	<u>(1,424,906)</u>
CHANGES IN NET ASSETS WITH DONOR RESTRICTIONS:		
Contributions	184,801	152,750
Net assets released from restrictions	<u>(180,795)</u>	<u>(160,835)</u>
TOTAL CHANGE IN NET ASSETS WITH DONOR RESTRICTIONS	<u>4,006</u>	<u>(8,085)</u>
TOTAL CHANGE IN NET ASSETS	5,529,910	(1,432,991)
NET ASSETS - beginning of year	<u>5,958,979</u>	<u>7,391,970</u>
NET ASSETS - end of year	<u>\$ 11,488,889</u>	<u>\$ 5,958,979</u>

The accompanying notes are an integral part of these statements.

	2018 - 2019	2019 - 2020	2020 - 2021
Revenues			
Dues	36,055,607	36,242,228	35,902,820
Fees	245,846	-	-
Other Supporting Income	2,425,392	2,292,457	3,356,108
Restricted Contributions (COPE)	124,666	152,750	184,801
Total	38,851,511	38,687,435	39,443,729
Expenses			
Staff Expenses	18,125,409	18,828,926	19,169,133
Per Capita Tax & Affiliation Dues	9,869,789	10,012,394	9,718,864
Operating Expenses & Depreciation	5,434,441	4,878,605	4,603,151
Program Expenses	2,730,854	2,641,272	653,494
Divisional Distribution	1,194,077	1,302,061	465,876
Restricted Distributions (COPE)	128,054	160,835	180,795
Total	37,482,624	37,824,093	34,791,313
Change in Net Assets Before Post Retirement Adjustment	1,368,887	863,342	4,652,416
Post Retirement Gain/ (Loss)	8,474	(2,296,333)	877,494
Net Change in Net Assets (Unrestricted and Restricted)	1,377,361	(1,432,991)	5,529,910

Roll Forward of Net Assets (Unrestricted and Restricted)	2018 - 2019	2019 - 2020	2020 - 2021
Net Assets Beginning of Year	6,014,609	7,391,970	5,958,979
Prior Period Adjustment	-	-	-
Current Period Change in Net Assets	1,377,361	(1,432,991)	5,529,910
Net Assets End of Year	7,391,970	5,958,979	11,488,889



Finance Department

In fiscal year 2021, the Net Assets of the Union increased by \$5,529,910. Due to COVID-19, the spending of the Union throughout the fiscal year was decreased significantly compared to all other years. With minimal meetings and events being held by the members of the Union, total Program Related Expenses were down almost \$2 million from the year prior. Staff Travel expenses were cut almost in half, by \$300,000.

At the same time, the investments held by the Union increased by a large percentage. Net Unrealized and Realized gains totaled \$1.46 million, a large increase from the prior year of \$147,000. When added together with the Interest and Dividend Income received of \$203,000, Investment Income was over \$1.66 million for the year ended March 31, 2021.

These results led to the increase in Assets of the Union from \$22.8 million as of March 31, 2020, to \$28.9 million as of March 31, 2021, an increase of \$6.1 million. A significant portion of this increase is in the Property and Equipment of the Union, specifically on the building upgrades at PEF HQ. As of March 31, 2021, \$3,785,452 had been spent on the project. These improvements were able to be financed out of the cash position of PEF, rather than funded using investments held by the Union, due to the decreased spending during the 2021 fiscal year.

While the financial results of the Union appear good on the surface, a troubling trend emerged during the year: the decrease in dues revenue received. Total Membership Dues decreased by approximately \$340,000 compared to fiscal year 2020. While this may not seem like a significant decline, less than 1%, the problem is much larger. By comparing dues money received from our Administrative members from the first payment of the 2021 fiscal year to the last, there is a 2% decrease in dues received. Doing the same exercise for Institutional members, we have double the decrease, 4%. This trend has, unfortunately, continued into the 2022 fiscal year.

In summary, the Union is currently in a strong financial position. The Union's cash and investment positions will be able to support the Union in overcoming any outside threats in the years to come. While the financial position is strong, growing our membership back to pre-pandemic levels and higher will be paramount to continuing to our future successes as a Union.

As always, the PEF Finance Department remains committed to protecting the Union assets and ensuring a financial future full of success.

Membership Information Systems (MIS)

Mission Statement

The Membership Information Systems (MIS) Department strives to provide the highest quality technology related services in the most secure, economical, and effective manner to facilitate the goals and operation of the New York State Public Employees Federation.

Department Overview

MIS provides an essential link connecting all eleven PEF locations. MIS is unique among PEF departments in that we provide services to all other departments on a routine basis that are required to make their everyday workflow possible. In addition, we are also the integral cog in connecting members with staff, leaders, and each other via the web, e-mail, telecommunications, audio visual, data services, etc.

Also, in the past year MIS has been integral in enabling the Organization's ability to continue working throughout the COVID pandemic including providing secure remote access to PEF systems, data, and phones. This allowed PEF Staff to continue the work of the Union during the prolonged shut down.

Renovations to PEF Headquarters

MIS developed and worked in conjunction with the Statewide Facilities Management department on the renovations to PEF Headquarters. Some of the highlights of the work completed related to technology are as follows:

- Enhanced physical security by the installation of new security cameras and access-controlled doors.
- New datacenter with proper climate control with remote monitoring.
- Updated data cabling throughout PEF Headquarters and enhanced internet capacity.
- Update PEF wireless connectivity throughout all of PEF Headquarters.
- Improved meeting spaces with updated technology in all PEF conference rooms.

End User Equipment Refresh

MIS is in the process of deploying new laptops, docking stations, and monitors to all PEF Staff. This deployment is also married to a migration to Office 365 to better position PEF for secure, robust, collaborative remote work capabilities.

NEW PEF.org

PEF has recently deployed a new PEF website. The PEF website is a collaboration between the MIS and Communications departments and is the most forward-facing tool we use to communicate with our members, elected officials and the public. The site features a secure Members section which displays your Division and Region, and the name and contact information about your specific Executive Board representative, Council Leader, Regional Coordinator and PEF Field Representative.

Going Forward

Over the next year we will work to further enhance PEF's network, security, computer systems, web interactivity and overall Information Technology infrastructure to maximize value for our members while maintaining the critical systems and technologies that PEF requires to conduct the business of the Union.

Special Events Department

The Special Events Department is bringing people together, and “Finds a Way to Get it Done.” Whether in-person or virtual, our team works with PEF leaders, members, and staff to ensure productive and safe meetings and events.

The primary focus of our department is planning the Annual Convention, Quarterly Executive Board meetings, Labor/Management Conferences and numerous in-person trainings and events statewide. Responsibilities include onsite management, site inspections and recommendations, creating and distributing RFP’s, reviewing, and negotiating agreements, contracting event suppliers, coordinating staff and supplier roles, handling logistics, such as space assignments, catering, and audio/visual requests.

In addition to event planning, Suzanne Zabek, Special Events Travel Assistant handles all hotel and travel arrangements for members and staff and Jodi Nielsen, Executive Assistant for both the Executive Offices and Special Events manages the onsite meeting space and catering at PEF Headquarters.

When the COVID pandemic started, our role as in-person event managers shifted entirely. Almost overnight, with the support of the PEF MIS Department, we began scheduling and hosting most of the virtual meetings for PEF. Mike Favata became the Special Events Zoom expert, conducting Zoom training for all PEF staff and regularly provides coaching for meeting attendees. At the time of last year’s Convention, we had already conducted over 500 Zoom meetings with 8,000 attendees. Since then, we have coordinated 1,260 Zoom meetings with 16,675 attendees.

In October 2020, we successfully produced the PEF Convention virtually. Once again, we partnered with the PEF MIS Department, the PEF Communications Department and CMI, our production company, to overcome significant challenges. We needed a program that would allow the use of Parliamentary Procedure and the ability to debate in a virtual format. We also had to ensure that all delegates could participate using the electronic devices available to them at home. At

that time there were no programs/software with those components built in. Instead, we combined multiple platforms to create a specially designed microsite that could accomplish what we needed. It was not a perfect process; there were some bumps along the way. Nonetheless, we provided a format for members to speak, where business was conducted, well under budget and without a cancellation penalty from Niagara Falls. Considering the level of complexity and the limited time allotted, we are extremely proud of the overall outcome.

In June 2021, the number of in-person meetings started to rise and PEF headquarters reopened. We resumed management of the onsite meeting space and catering and travel arrangements have increased. Since that time, we have booked 125 in-person meetings for members and staff and made over 300 hotel reservations.

In addition, we continue to manage PEF Zoom meetings (please note that soon local meetings will be moving to Regional PEF Field support). We have scheduled and hosted 626 Zoom meetings since June 2021.

We are currently working with Darlene Williams, Vice President and Convention Chair and the Convention Committee to plan for the upcoming Convention in Niagara Falls. We look forward to seeing everyone there!

Executive Offices

PEF's Executive Offices consist of the following departments:

- Civil Service Enforcement and Research
- Health and Safety
- Human Resources
- Office of General Counsel
- Legislative
- Communications
- Statewide Facilities Management
- Education and Training
- Field Services
- Organizing
- Divisions
- Contract Administration

These departments are responsible for carrying out the many directives and initiatives of the President.

Divisions

This was an unprecedented and extremely busy year for the Divisions Department.

To start, the COVID pandemic occurred during a PEF triennial election year. The impact started with the prep work for the PEF 2021 Triennial Election cycle that began at the 2020 agency apportionment meetings held during the PEF 2020 virtual convention. Further, the pandemic required finding new ways to assist division leaders and division treasurers with ways to engage their members and spend their per capita payments in fiscally responsible ways to engage their members while not able to physically meet due to social distancing guidelines and telecommuting offices.

The Divisions department team continued to assist divisions with moderating many budget and/or audit meetings by Zoom so the financial business of divisions could continue. The monthly check-in calls/emails to leaders and treasurers to provide support and guidance became a staple to assist those division leaders returning to the workplace as well as those that were and are still telecommuting. The focus was to keep all divisions organized, accountable for all financial matters and hold elections to add representatives to divisions to help with workplace issues.

During the past 12 months (September 2020 through September 2021) the Divisions department conducted 93 regular division steward/officer elections, and 99 steward/officer vacancy elections. The number of vacancy elections is in direct correlation to the outreach provided to divisions by the PEF Divisions and PEF Organizing departments. We continue to work with new and existing leaders as well as activists who have made it their mission to make their local divisions stronger and address the needs and issues of their members. We consistently provide guidance on how divisional funds can be spent and we assist divisions that have been dormant due to retirement, resignations or no succession planning and have successfully guided those divisions into compliance with elections and necessary financial reporting.

Due to the COVID pandemic, no Special elections were held during the April, July or October 2020 quarters

of 2020. The PEF Triennial Election was however conducted as per the PEF Constitution with petitioning beginning March 29, 2021, and ending on April 28, 2021. This election included petitioning for 5 Statewide officer positions, 3 Trustee positions, 12 Regional Coordinator positions and 110 Executive Board seats. At the close of petitioning all candidates who achieved the minimum valid signature requirement necessary for their position were seated. No balloting was required in those cases. In addition, no debate was needed for the Statewide offices.

The positions/seats not filled during the Triennial Election included: 1 Regional Coordinator and 46 Executive Board seats. Prior to the beginning of the election term, which started on August 1, 2 additional Executive Board Seats became vacant due to retirement and/or resignation. These 49 vacant positions will make up the Special Election for the October 2021 cycle. The Special Election petitioning period will run from October 13, 2021, to November 3, 2021.

On the financial front, the Divisions department brainstormed and assisted divisions with creative ways to use their funds. This was necessary as most divisions were over the maximum per capita allowed to be held due to not having their typical meetings/gatherings during 2020 and the first part of 2021. Some divisions purchased grocery vouchers that they and regions used during the holiday time as well as additional giveaway items and vouchers for other goods/services that were region specific. This allowed divisions to stay engaged with their members. Divisions also used the Zoom platform to hold virtual meetings and some divisions decided to use giveaways to get members to join the Zoom meetings. Bank statements from Bank of America continue to be emailed to leaders and treasurers immediately at the close of the statement cycle as well as all quarterly financial mailings sent through email. These continued improvements create faster and more efficient communication between the division leaders and treasurers and the Divisions department. These implementations still allow PEF staff the ability to focus on assisting divisions one-on-one which has been vital through the pandemic and into and through 2021. All

financial forms were modified as fillable PDF's and are offered on the Divisions department website (www.pef.org/DivisionsFinance) for ease of use.

This year we took a more focused view on Regional Coordinator budgets and audits. With the addition of 6 newly elected Regional Coordinators, Department staff has attended and presented at the new Regional Coordinator training held shortly after the new term of officers started (8/1/21). Department staff will also be providing training at Convention for any officer/steward that is interested in learning more about their division's finances. To round out the end of this year, PEF staff, including Divisions department staff, will be providing training to all new Council Leaders in December at the new council leader training that will be conducted at PEF Headquarters.

While meeting face-to-face with committee members during the past year has been difficult, staff has supported the following meetings virtually through Zoom: six Triennial Committee meetings, one Delegate Committee meeting, and one Special Elections committee meeting.

For Triennial Elections, the meetings focused on drafting the triennial election rules for approval by the PEF Executive Board. These drafted rules included the newly amended PEF Code of Ethics policies. The committee also proposed the use of an election website for members to securely sign triennial election petitions considering members telecommuting during the election period. The Delegate Committee also

drafted rules approved by the PEF Executive Board and assisted in overseeing the 2021 PEF Delegate Election petitioning and ballot counting. Delegate ballot preparation, mailing, and counting of ballots was performed by Division's department staff in consultation with the committee. Based upon the number of active PEF members on record, the 2021 Convention had the potential of 1,004 delegates from 247 constituencies. A total of 526 valid petitions were submitted for those potential 1,004 delegate positions, and 17 constituency elections went to balloting to elect a maximum of 57 additional delegates from the outcomes of these elections. A total of 469 petitioners were declared elected without opposition and 81 executive board, officer, and trustee delegates participate without petitioning for a total of 607 delegates (this number can fluctuate with cancellations/seating of alternates).

In closing, the Divisions department remains committed to ensuring that each PEF division is financially compliant, follows the established policies and procedures and continues to recruit new member leaders. If your division needs assistance, please reach out as we are always there and happy to help!

Civil Service Enforcement & Research Department

PEF's Civil Service Department works with PEF leadership and staff to support the Union's efforts to enforce the merit system. The department continuously monitors the activities of the NYS Department of Civil Service & other State appointing authorities and challenges these entities when PEF interests are at stake.

Department staff provide technical information and assistance to members through answering inquiries from Field Services and other PEF staff, Executive Board members, Council Leaders, and Statewide L/M Chairs. Civil Service-related inquiries that Department staff attend to include, but are not limited to, the following:

- Jurisdictional classification challenges,
- Civil Service exam announcements, exam eligibility, and alternate exam dates,
- Eligible lists and appointments,
- Canvassing and interviewing,
- Attendance and leave, and reinstatements,
- Geographic wage differentials,
- Minimum qualifications,
- Salary determinations and reconstructions,
- Probationary terminations,
- Reclassification, reallocations, and geographic pay differentials

Other routine activities include:

- Analyzing the Executive, Senate, and Assembly budget proposals; attending budget briefings; and collaborating 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. Department staff also assist members and leadership with writing

testimony about PEF's position on a wide range of budget and policy issues.

- Facilitating member and staff access to the New York State Career Mobility Office (CMO) information services and attending quarterly meetings of the CMO Advisory Group. The CMO is jointly funded through the negotiated agreements between the State of New York and the Civil Service Employees Association, Inc., and the Public Employees Federation, AFL-CIO Program administration and additional funding is provided by the Governor's Office of Employee Relations and the Department of Civil Service.
- Attending and monitoring NYS Civil Service Commission meetings; requesting hearings before the Commission to argue issues of importance; and providing technical information and assistance to members in processing and presenting Civil Service Commission appeals;
- Serving on the New York State Pay Equity Study Advisory Committee and providing Study updates and information to PEF members and staff.
- Compiling data and information on a variety of topics, including public and private work force trends; consulting services contracts; and workforce demographics in support of PEF's:
 - Fund our Future Working Group
 - Joint Committee of Nursing and Institutional Issues Committee
 - Statewide Labor/Management Advisory Committee
 - Region 8 Civil Service Committee
 - Job Security Committee
 - Information Technology Committee
 - Women's Committee

Notable Department Activities in 2020-21:

- In September 2021, Department staff had a series of productive discussions regarding hourly employees at the Department of Labor (DOL), specifically in the Labor Services Representative (LSR) title. We look forward to continued collaboration with DOL as the agency develops strategies to create a pathway to permanency for experienced and successful hourly employees. In addition to assistance with test preparation, DOL is also exploring additional avenues (with the Department of Civil Service) to ensure that the agency can most easily identify and appoint candidates who are able to perform the full range of LSR duties upon permanent appointment.

As ever, PEF supports the goal of increasing access to a permanent career path via examination, as examinations are essential to a functioning merit system.

- With PEF support, on August 28th, the Office of Temporary and Disability Assistance was successful in their appeal to the Civil Service Commission (CSC) in retaining the Grade 20 allocation for the Disability Analyst 2 (DA 2) title. Working with the agency, PEF's OTDA Labor Management team, Department staff, and Field staff were successful in demonstrating to the CSC that the decision made by the Classification and Compensation Division to downwardly reallocate DA 2's to Grade 18 was unfounded because incumbents in the DA 2 title continue to perform the core duties at the Grade 20 level.
- Department staff assisted in facilitating geographic pay differential increases for Nurse Practitioners working at Employee Health Service for DCS in Albany County. DCS received approval from the Classification & Compensation Division to utilize the \$20,000 geographic pay differential for Nurse Practitioners effective July 8, 2021, due to a grievance filed by Field.
- In March 2021, Department staff was able to secure a Department of Civil Service review of NYSED Law 7208.a.5, the result of which was the revision of the Professional Geologist 1-3 exam announcements to reflect a requirement exemption for certain employees. Additionally, DCS reviewed the open competitive exam applicants in order for NYS employees serving in a geological position as defined by the NYSED Law could apply; and notified the participating agencies of the revisions so they can ensure all qualified staff were aware.
- In January 2021, a member brought a salary question to the Department's attention, which resulted in the Department of Civil Service ensuring that the salaries of all existing Licensed Psychologists (Grade 25) statewide were raised to the newly approved minimum salary (\$91,794), increasing the likelihood of recruiting and retaining clinical staff to serve New York State's youth, families, and adults.
- In preparation for the possibility of State workforce restructuring due to COVID-19, Department staff arranged training by the Career Mobility Office for Field Services Staff. In order for Field Representatives to be fully prepared in the event of a workforce reduction topics covered included: Agency Reduction Transfer List (ARTL); Preferred List (PL); and Reemployment Rosters (RR).
- Starting in April 2020, Department staff began drafting and mailing letters to the families of members who passed away. The letters outlined the benefits and assistance offered by PEF, the State, and the Federal government. The letters also included information such as the member's Field Representative, the Health & Safety staff assigned to their agency, and contact information for the member's Council Leader and Regional Coordinator. There are three attachments that we include, depending on the cause of death. Every letter is mailed with the Dependent Survivor Coverage attachment; if the member was a victim of COVID-19, we also include PEF's Worker's Compensation and COVID-19 Information Packet, and Contact Information for COVID-19 and Worker's Compensation Attorneys.

Health & Safety Department

The mission of the PEF Health & Safety Department is to prepare and strengthen PEF leaders and activists to achieve safe and healthy environments in every PEF-represented worksite. PEF Health & Safety staff work with elected leaders, H&S agency and local level committees, and members on a wide variety of occupational safety and health initiatives. The hallmark of the health and safety program has been its ability to mobilize the membership to design and implement programs to address key hazards that cause injuries and illnesses among our members.

H&S staff work to:

- Build PEF by encouraging members to take an active role in union activities.
- 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;
- Participate in national, state and local forums that advocate for improvements to occupational safety and health through legislation and political action.

ACTIVITIES

COVID-19 Response

The Health and Safety Department continues to

educate and assist leaders, members and staff on all health and safety matters for COVID-19. Staff research and compile the most up to date information to prepare PEF leaders with the necessary information to advocate for members' health and safety on the job and compel the State to respond to the crisis. Staff continue to collaborate with other New York and national unions, and occupational safety and health coalitions to push for better worker protections during this pandemic, resulting in the OSHA Emergency Temporary Standard on COVID for Healthcare, OSHA's National Emphasis Program for COVID, and revised OSHA's Workplace Guidance for COVID.

State agencies were required to develop and implement, with union input, Pandemic Plans by April 2021. H&S Staff worked with Division leaders to review and submit comments on these plans to ensure issues of concern to PEF members were identified.

H&S Staff have prepared factsheets for members on the vaccine and variants, and ways members can protect themselves as the Delta variant of the coronavirus continues to spread. In addition, there are a variety of sources available online with accurate, science-based information that may help address your questions and concerns. If you have questions not addressed by any of these sources, PEF has set up an email that is monitored daily at CovidVax@pef.org.

H&S resources for COVID can be found on the PEF website www.pef.org/covid-19 and include, among many others:

- Understanding New York's vaccine/test mandate & revised CDC masking guidelines
- Frequently Asked Questions about COVID variants and vaccines
- Summary of Guidance on COVID for State Agencies, OSHA NEP, and OSHA ETS
- PEF H&S Summary of the CDC New Interim Guidance for Fully Vaccinated People

- Pandemic Planning Template & Reviewing your Agency COOP
- OSHA Guidance on Mitigating and Preventing COVID-19 at Work
- Ergonomics and Working from Home Factsheet
- Proper COVID-19 Controls for Your Workplace checklist
- Vehicle Safety and COVID-19 fact sheet
- Tool kit for Leaders and a summary for management on Return to Work during NY Forward
- Coronavirus disease for workers with field assignments
- PEF member COVID-19 exposure tracking form
- COVID and workers' compensation information and attorney contact information

Workplace Violence Prevention

H&S Staff continue to work with PEF leaders and State agencies on workplace violence issues. Some agencies are still not in compliance or need improvements to their WVP programs. H&S Staff assist PEF leaders with correcting deficient programs and filing PESH complaints when agencies refuse to comply.

Training

Health & Safety staff coordinated and delivered 24 training sessions for over 1,084 participants a variety of occupational safety and health topics since the last Convention. Since the start of the COVID pandemic, trainings are now delivered virtually. Staff continue to modify current programs and develop new programs for virtual platforms. Topics included: Infectious Diseases & COVID-19 Information for Workers, Workers' Compensation and COVID, Ventilation for COVID, Effective Health and Safety Committees, Infectious Diseases/Bloodborne Pathogens, Pandemic Planning, Occupational Stress, Walkthroughs and Post Incident Response, Workplace Violence Committees, Ergonomics, Tools for Revitalizing Health and Safety Programs and many others. Please contact the Health and Safety Department at 518-785-1900 ext. 254 or healthandsafety@pef.org to schedule training.

Injured Workers and Workers Compensation

H&S Staff continue to provide much needed information to injured PEF members, PEF leaders and PEF staff on workers compensation statutory, contractual and civil service law rights and benefits.

COVID-specific information for workers compensation is available on the COVID page of the PEF website. We work closely with PEF Field Services, Contract Administration, Health Benefits, Legislative Office and the Office of General Counsel in addressing members' workers compensation questions and concerns. We send detailed informational packets to members and staff upon request. Additionally, staff provide direct outreach to assaulted members. If you have reports of members injured on the job, contact us for more information and assistance at HealthAndSafety@pef.org.

Member Engagement

In addition to providing support to agency and local level committees, H&S staff have direct contact with members on a variety of concerns. Members may contact the H&S department directly, or H&S staff will engage members during walkthroughs or site visits. H&S Staff take every opportunity to speak to PEF members about the importance of a strong union for safety in the workplace. Workplace violence, indoor environmental quality and ergonomics are important gateway issues to having these conversations with members.

Grant Funding

The Department has applied for continued funding, from the NYS Department of Labor Hazard Abatement Board Occupational Safety and Health Training and Education grant (OSHT T&E) to support occupational safety and health training and education programs throughout the State.

Due to the current COVID-19 pandemic, the Department of Labor has not announced the award of those grants at this time. An announcement of awards is expected this Fall. However, the Health and Safety Department continues to offer training programs and has adapted training programs that address some of the challenges the NYS workforce is facing due to the pandemic. The department has also developed alternate training formats using technology such as Zoom or Teleconferences, as limitations on gatherings and social distancing are expected to continue for quite some time.

PEF also has secured funding through the American Federation of Teachers to provide trainings pertinent to COVID-19 and the ongoing pandemic. The grant year will run June 1, 2021- May 31, 2022.

Please contact the Health and Safety Department at 800-342-4306 ext. 254 or HealthAndSafety@pef.org to schedule a program for your agency/work location.

Occupational Health Clinics

Health and Safety Department staff continue to participate on the advisory boards of a number of the state-funded Occupational Health Clinics. These clinics diagnose and treat work-related illnesses and perform a myriad of prevention activities.

Article 13 and 18 Committees

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

The Article 18 Committee meets to discuss and resolve issues that have not been resolved at agency-level health and safety meetings; develop training and educational opportunities for the membership and management; evaluate current trends in worker injury rates and make recommendations; assist in the planning and development of the Health and Safety Conference for agency labor and management H&S Chairs. The committee is currently addressing issues relating to COVID-19, HVAC ventilation and filtration; deteriorating conditions at state buildings/facilities; and parking lot safety. The committee continues to seek input from Agency H&S Committees on unresolved issues and areas of interest that have not been adequately addressed by management at agency-level H&S committee meetings.

The Article 13 Committee is planning a meeting with GOER in the coming weeks. Agenda items include:

- Workers Compensation and COVID
– various issues
- WTC Health Program
- Data analysis of the Department of Civil Service Annual Report of Government Employees Workers' Compensation Claims for Fiscal Year 2018-2019
- Revision of the NYS/PEF Workers Compensation Booklet
- Workers' compensation and COVID

The Committee continues to discuss ways to collect data on the use of the Mandatory Alternate Duty (MAD), which is the light duty program, in state agencies.

The AFL-CIO is collecting information on COVID workers compensation cases. If you or any of your

members have filed a COVID claim and that claim was controverted or denied, please contact us at HealthAndSafety@pef.org. Be sure to include your full name and non-work phone number where we may contact you.

Agency Health and Safety Committees:

PEF Staff continue to provide technical assistance to PEF's network of Agency and local level H&S Committees. This includes: research and advisement on occupational safety and health (OSH) standards, rules and regulations; consultation, coordination and implementation of committee activities, agendas and action items; negotiations with management representatives on OSH issues; planning, scheduling and providing training on OSH topics to various committees; and advisement to PEF leaders on issues related H&S Committee activities.

Agency Health and Safety Committee Chairs Zoom meetings are held monthly to provide PEF Chairs with the latest information, share strategies and collect feedback on workplace safety issues.

Information

For more information on how the PEF Health and Safety Department can assist you, please contact us at 800-342-4306, ext. 254 or by e mail at HealthAndSafety@pef.org.

Human Resources

The Office of Human Resources is staffed by the PEF Executive Director and two Human Resource Administrators, one of whom focuses on recruiting and onboarding, while the other focuses on health, prescription drug, vision, dental and other related benefits, and retirement. In addition, outside of HR, the PEF Executive Department paralegal assists with Investigations, Reports and other compliance requirements.



Of the approximately 150 staff at PEF 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 the Membership Benefits Program. The HR department enforces the collective bargaining agreement for PEF as the employer and ensures compliance with the agreement, and with staff policies and procedures, including grievance handling, disciplinary actions, and personnel services.

The Human Resources staff handles many necessary functions within PEF, which are instrumental in providing training and knowledge to equip staff with a full understanding of the importance of a diversified climate applicable to their employment. This includes mandatory trainings for all employees on discrimination, retaliation, sexual harassment, and cyber security training.

PEF Human Resources *Shaping the Labor World for a Union Strong Tomorrow.*

PEF is committed to recruiting talent and is dedicated to hiring and promoting qualified candidates to open positions to ensure qualified internal candidates have an opportunity for career advancement. PEF also utilizes a wide variety of diverse external recruitment sources, such as the Worker Institute at Cornell, The Chief, Union Jobs, Amsterdam News, El Diario, and other institutes emblematic of labor relations and cultural diversity. The Human Resources department 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 paperwork for all personnel activities.

Health Benefits - The department is responsible for administering the health insurance plan for PEF staff and eligible PEF retirees. The PEF Executive Director serves as the health plan administrator. PEF utilizes third party administrators to process claims for health insurance, prescription drugs and dental and vision benefits.

All aspects of insurance coverage for staff, including long term disability, term life, New York State disability, paid family leave, workers' compensation, unemployment insurance and related benefits are administered by the HR Department in conjunction with the Finance Department and the applicable state agencies. Other benefits include the Staff pension administered by SEIU and the 401K program.

The department holds health and safety meetings, labor-management meetings, and health benefits committee meetings with USW.

Office of General Counsel

I. OVERVIEW OF PEF'S OFFICE OF GENERAL COUNSEL

The PEF Office of General Counsel ("OGC") is PEF's in-house law office and provides a wide range of legal services to PEF and PEF members.

An essential legal service that OGC provides to PEF members is legal representation to members facing 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 laws and appears before administrative agencies such as the Public Employment Relations Board.

Our cases involve a variety of legal issues, including but not limited to: constitutional rights and issues; issues involving rights under and application of the *Civil Service Law ("CSL")*; issues involving both enforcement of the *Taylor Law* on behalf of members and PEF and defense of PEF under 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 upholding the due process rights of our members, just to name a few. OGC also defends PEF in legal and administrative actions brought against the organization.

Further, OGC provides legal advice and opinions to other PEF departments, committees and the PEF elected leadership. We also advise union officers and staff on union governance issues, such as convention resolutions, proposed amendments to the PEF Constitution, Executive Board policy and compliance with federal union election laws. We monitor current legal cases and matters, and issue general legal advisories and guidance regarding new legislation, important court decisions and significant legal trends in the labor and employment law arena. We also provide corporate advice and counsel to PEF on various business transactions, including leases, contracts, and liability issues. Finally, OGC advises and represents PEF in its role as an employer, including in labor relations with PEF's staff union.

While this report does not detail all OGC's work over the last year, it summarizes the major activities of the Office.

II. COVID-19

Approximately one year ago, this body met via a virtual convention, a necessity that was unavoidable due to COVID restrictions in place at that time. While a virtual convention may not have been ideal, conducting such a massive undertaking and accomplishing PEF's Constitutionally mandated processes was a credit to all who organized, staffed, and participated in the convention.

At the time of this writing, this body is scheduled to meet in-person, following the successful August 2021 return to in-person Executive Board meetings, the first in nearly eighteen months. While COVID-19 continues to present challenges to our Nation, the State of New York, PEF, and its members, we hope to see continued progression back toward normalcy. With that said, it seems likely we may never see a return to life that is exactly as it existed prior to COVID-19.

Many of us have lost friends, family members, coworkers and fellow union brothers and sisters to the COVID virus. Every one of us has seen our work life dramatically changed, whether it has been remote work or long hours of in-person work providing essential services under incredibly difficult working conditions. Some of those changes have been temporary, but some may continue indefinitely or permanently alter the way services are performed and delivered. The dedication and resiliency of PEF's members have truly kept New York State running during this pandemic.

At the same time, the dedication and resiliency of OGC's staff has ensured that members' rights have been protected and that PEF's business has been conducted throughout the pandemic, despite incredible challenges. Like many of PEF's members, our attorneys and staff have overcome the challenges of remote work while learning and mastering new technology. We have conducted virtual hearings to get suspended members back to work; argued before State and federal courts via Zoom, Webex and

teleconference; conducted both remote and in-person conferences and hearings before State agencies; and met with members both in-person throughout the State and remotely.

We remain inspired by the commitment of PEF's members in responding the challenges presented by the COVID-19 pandemic, and we remain equally committed to ensuring that their rights and benefits are protected during these difficult and ever-changing times.

III. ARTICLE 33 ARBITRATION CASES/EXPEDITED SUSPENSION REVIEW

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 procedures culminate in binding arbitration before an independent arbitrator. Arbitrators are appointed from a panel administered by the American Arbitration Association pursuant to a process agreed upon between PEF and the State. During the period from September 17, 2020, to September 16, 2021, we opened files in 133 disciplinary termination cases and 88 of those members were suspended pending an arbitration hearing. During that same period, we have received 45 arbitration awards in our Article 33 cases. At the time of this writing, we are also likely to be providing representation in more than 135 new cases arising out of the State's vaccination mandate. Managing this massive influx of disciplinary cases, essentially doubling the number of cases annually handled by our office, is a significant undertaking.

During our legal representation of suspended members facing termination, our office has successfully negotiated for the return of back pay, restoration of accruals and attendant benefits. In addition, we have received favorable arbitration awards ordering the reinstatement of our members with back pay. For the period from September 2020 to September 2021, the back pay and value of restored accruals total approximately \$790,789.00.

While our office has had success in returning members to payroll with back pay, members sometimes remain suspended throughout the hearing process. Accordingly, the expeditious processing of these cases is extremely important. To that end, our office takes all appropriate actions to get hearings scheduled as quickly as possible, if that is what the member wishes.

To further assist members who are suspended without pay, the recently ratified PEF/State Contract now

includes a Memorandum of Agreement that allows for a prompt suspension review by an arbitrator in certain cases. As most suspension cases accompany disciplinary termination charges, our office is now handling the expedited suspension review on behalf of members.

Since the Contract's ratification our office has requested the arbitrator's expedited suspension review in several cases and we are pleased to report that we have already received favorable decisions from the triage arbitrator, who has lifted members' suspensions and awarded full back pay and attendant benefits. We have other cases pending and our office will continue to take all appropriate actions to advocate for our members' quick return to payroll with full back pay.

IV. COVID-19 LITIGATION

The ongoing COVID-19 pandemic has continued to present significant legal issues since our last annual report and the OGC has provided research, analysis, and guidance to PEF's leadership, other PEF departments, PEF's committees, and its members on the myriad COVID-related questions. Our office has also initiated court proceedings to support our PEF heroes and has provided legal guidance to PEF on COVID related issues in its role as employer. In working to protect and enforce members' rights during the pandemic, we remain inspired by PEF's tireless public servants.

To highlight some of the significant activities of our office regarding the pandemic:

Spence, et al. v. State of New York, et al.

On July 17, 2020, we commenced an Article 78 proceeding alleging that the State is mishandling overtime compensation for PS&T Unit employees fielding calls on the State Department of Health's COVID-19 Hotline and assisting the State Department of Labor with increased claims for Unemployment Insurance and Pandemic Unemployment Assistance. In September, the State moved to dismiss our Petition and we submitted further argument to the court. On January 29, 2021, we received a decision and order from the Albany County Supreme Court, which denied the State's motion in part and granted the motion in part. The Court found that nothing in PEF's papers gives the State support for paying overtime wages at one-and-one-half times an average rate ("weighted rate") of pay. Instead, the Court found that PEF has stated a cause of action for overtime being appropriately calculated at one-and-one-half times the regular rate of pay.

To the extent the State's motion was granted, several agencies were relieved from the action and the Court limited the scope of relief available to PEF and the petitioners. The court found the remaining agencies to be proper parties and the litigation will proceed as to those parties. PEF appealed those adverse aspects of the decision to the Third Department and is pursuing a motion for leave to reargue the matter in Supreme Court.

Spence, et al. v. New York State, et al (FFCRA)

On July 9, 2020, on behalf of the affected members of the Professional, Scientific and Technical Services ("PS&T") Unit, PEF filed an Article 78 proceeding in the Albany County, Supreme Court, to challenge the irrational and improper denials of *Families First Coronavirus Response Act* ("FFCRA") leave, by several New York State agencies.

Specifically, PEF asserted that several Executive agencies violated the requirements of the *FFCRA*; defied New York State's own *FFRCA* policies; unjustifiably deprived PS&T Unit members of *FFRCA* benefits; and acted contrary to the Equal Protection Clause of the New York State Constitution (N.Y. Const. Art. 1, §11).

On September 18, 2020, the State filed its Verified Answer with supporting documents. On September 24, 2020, PEF filed its Verified Reply in opposition to the State's new arguments raised in the State's Answer.

Unfortunately, on November 4, 2020, the Albany County Supreme Court dismissed PEF's petition. The Court determined that there was a rational basis for Respondents' denial of Petitioners' *FFCRA* leave requests and the Court refused to "disturb respondents' findings as the Court must give deference to and not substitute its judgment for factual evaluations within an agency's area of expertise."

On December 3, 2020, PEF filed a Notice of Appeal with the Supreme Court, Appellate Division, Third Department, to preserve the right of appeal. Also, on December 15, 2020, PEF filed a Motion for Leave to Reargue and Renew with the Albany County Supreme Court. On January 8, 2021, the State submitted its response to PEF's Motion. Unfortunately, on March 12, 2021, the Albany County Supreme Court denied, PEF's Motion for Leave to Reargue and Renew.

On July 7, 2021, PEF perfected its appeal with the Supreme Court, Appellate Division, Third Department. Presently, Respondents are expected to file their brief on November 7, 2021.

Spence, et al. v. New York State, et al (COVID-19 Quarantine Leave)

On January 15, 2021, on behalf of the affected members of the Professional, Scientific and Technical Services ("PS&T") Unit, PEF filed a hybrid action declaratory judgment and Article 78 proceeding in the Albany County, Supreme Court, to challenge the irrational and improper denials of New York State mandated paid quarantine leave by several New York State agencies.

Specifically, Respondents ordered Petitioners and affected PS&T Unit Members to charge leave credits for quarantine leave periods, contrary to their guaranteed rights under GOER's Quarantine Leave Policy, Chapter 25 of the Laws of 2020 ("Chapter 25"), and 4 *NYCRR* § 21.11.

On April 4, 2021, in response to PEF's Petition, Respondents filed a motion to dismiss alleging that the matter was now moot because each of the named Petitioners were made whole. On April 22, 2021, PEF filed a Reply in opposition to Respondents Motion, in which PEF provided ample evidence that PEF's affect members have not been made whole. PEF further asserted that there were unresolved issues of law that were ripe for judicial review.

Unfortunately, by decision and order, dated May 28, 2021, Justice Roger D. McDonough dismissed PEF's Petition. In his decision, Justice McDonough held that the claims of the named Petitioners were rendered moot because each of the named Petitioners were made whole by Respondents. Further, the court dismissed the remaining claims for relief for affected members, pursuant to "*CPLR* § 3211 (a)(2) and (7) for failure to exhaust any and all administrative remedies." Lastly, Justice McDonough further found that even if relevant issues remained despite Petitioners' failure to exhaust administrative remedies the exceptions to the mootness doctrine would not apply because "based on the availability of the grievance procedures and judicial review of the grievance process, the issues raised . . . would not evade judicial review."

On July 8, 2021, PEF filed a Notice of Appeal with the Supreme Court, Appellate Division, Third Department, to preserve the right of appeal. Presently, PEF is scheduled to perfect its appeal with the Supreme Court, Appellate Division, Third Department on or before January 7, 2022.

DOCCS Summer Teachers – Unemployment Insurance

On June 16, 2020, DOCCS issued a memorandum stating that academic and vocational programming through the summer of 2020 was suspended due to the COVID-19 pandemic. Many DOCCS teachers applied for the Pandemic Unemployment Assistance (“PUA”) and were granted regular unemployment insurance (“UI”) benefits as well as federal UI benefits.

In August 2020 our members began receiving notices of determination from DOL which stated that they were not entitled to the benefits that DOL had previously granted to them and that they had to pay the benefits back. Members continue to receive these notices from the DOL.

Pursuant to the *Labor Law*, a claimant may request a hearing within 30 days of receipt of the notice of determination to challenge that determination. Members have been advised to send in a request for hearing and the Office of General Counsel will represent them at any hearing, as we stand behind the notion that our members acted in good faith and are entitled to the PUA.

The Office of General Counsel continues to be involved in frequent discussions with the DOL. DOL has reviewed over 200 of the DOCCS teachers’ cases and has “waived” the recovery of State portion of UI benefits as well as any previously assessed monetary penalties for all the members we represent. These waivers are an acknowledgment that our members received those benefits through no fault of their own. Collectively, these revisions have resulted in hundreds of thousands of dollars of relief to PEF’s members. DOL continues to send revised notices of determination reflecting that change. We have not yet had any of the cases go to a full hearing, however, we are actively engaged in discussions with DOL to expeditiously process these cases.

To date, we represent over 240 members regarding this issue.

Spence, et al. v. NYS Business Services Center of NYS OGS, et al. (Article 78 Recoupment)

On August 31, 2020, PEF brought a CPLR Article 78 petition to challenge the recoupment of overtime wages for assistance during the coronavirus pandemic on behalf of four members employed by the NYS Department of Agriculture & Markets (“Ag & Markets”). The background of the case is as follows: on or about April 12, 2020, employees in Ag & Markets received

a mandatory overtime assignment to assist the NYS Department of Labor (“DOL”) in the Unemployment Insurance Project. At that time, it was the employees’ reasonable, subjective belief that they would receive overtime pay at their regular rate of pay, SG-18. These employees initially received overtime pay at a SG-18. Subsequently, these employees were told that a fiscal administrative policy requires calculating the overtime pay at a rate between a SG-9 and a SG-18, since this DOL work is typically performed by a SG-9. The State then recouped the full amount of overtime at a SG-18 and paid the employees overtime at a rate between a SG-9 and a SG-18.

In our petition, we argued that these employees were entitled to overtime pay at their regular rates of pay, and not a rate between a SG-9 and a SG-18, that there is no contract language in the PEF/State Contract indicating that the overtime pay can be at a rate other than the employees’ salary grade, and that it was the employees’ reasonable, subjective belief that they would receive overtime pay at their regular rate of pay, SG-18. We argued that the overtime funds were initially recouped without any due process protections afforded to petitioners, as required by the New York State Constitution.

This matter was resolved via a settlement requiring the State to pay petitioners the remainder of the overtime due to them at the SG-18 rate.

V. PENDING LITIGATION

Spence ex. rel. Matthew Brennan v. GOER, et. al. (Out of Title Litigation)

On December 8, 2020, PEF commenced an Article 78 proceeding in Albany County Supreme Court, alleging that it was arbitrary, capricious, and unlawful for GOER to deny Matthew Brennan’s out of title grievance. Mr. Brennan is employed by the Department of Labor (“DOL”) as a Labor Services Representative (“LSR”) (Local Veterans Employment Representative), salary grade 16.

PEF asserts that GOER’s Decision is arbitrary, capricious, and unlawful because: (1) GOER repeatedly asserted that Mr. Brennan did not perform the full range of duties of a Grade 18 Employment Services Representative (“ESR”), which was an erroneous basis to deny the grievance; (2) GOER inexplicably limited its review of the time period during which PEF alleged that Mr. Brennan performed out of title work; and (3) as another basis to deny the grievance, rather than assess the amount of time that Mr. Brennan performed ESR duties, GOER erroneously compared

the number of times Mr. Brennan performed ESR duties to the number of times employees holding the ESR title performed those duties.

More specifically, Mr. Brennan began working out of title as a Grade 18 ESR starting on February 7, 2015. The grievance, filed February 4, 2016, identifies nine different types of job duties performed by Mr. Brennan that account for 95% of his time each week—these job duties are included in the civil service classification standard for an ESR, which was attached to the grievance. By letter dated November 4, 2016, DOL denied the Grievance.

On November 14, 2016, PEF filed a Step 3 grievance on behalf of Mr. Brennan, again asserting that 95% of Mr. Brennan's time is spent performing out-of-title duties. On September 20, 2018, GOER issued a Step 3 decision denying the grievance. The denial states, in part, that the grievant did not perform "the full range of duties expected of a properly classified Employment Services Representative, Grade 18."

On October 18, 2018, PEF filed an Article 17, Step 3.5 appeal which was denied by GOER on August 12, 2020. The denial states, in part, that DOL gave GOER an "OSOS report from the timeframe November 1, 2017, through August 21, 2019." The report contained work activities for all Employment Services Representatives, Grade 18, and LSRs (Local Veterans Employment Representative), Grade 16, in the following regions: Capital, Central, Finger Lakes, Hudson Valley, Long Island, Mohawk Valley, New York City, North Country, Southern Tier, and Western." Mr. Brennan states that all tasks that he performs must be recorded in the OSOS system. According to GOER, the OSOS report showed that "the number of times the grievant performed" certain "functions [was] well below the average for Employment Services Representatives, Grade 18." GOER did not attach the OSOS report to its denial, nor did GOER address the accuracy of Mr. Brennan's allegation that he spends 95% of his time performing ESR duties.

All papers have been submitted and oral argument was held on May 25, 2021, before Justice Margaret Walsh. We are waiting for a decision.

State of New York v. Public Employment Relations Board, et al.

This matter stems from a favorable PERB Board Decision dated April 28, 2020. The April 28, 2020, PERB decision found that NYSIF engaged in an improper practice when it unilaterally ended an entrenched past practice of automatically assigning take-home vehicles

to inspectors. The Board found that NYSIF failed to introduce any evidence whatsoever demonstrating that NYSIF retained any discretion in the assignment of take-home vehicles, but rather that the assignment was automatic.

The State filed this proceeding challenging the April 28, 2020, Board Decision on December 3, 2020. In its Petition, the State alleges that the April 28, 2020, decision was arbitrary and capricious, affected by errors of law, and not based upon substantial evidence.

PERB and PEF filed papers responding to the Petition on February 16, 2021, requesting the Court dismiss the State's Petition. In responding, PERB and PEF assert that PERB's decision was entirely rational and supported by substantial evidence, and as such should be upheld.

We presently await the Court's decision.

R.D. v. DOL, et al. (CSL §73)

This matter arose when a member that was employed as an Administrative Law Judge at the Department of Labor ("DOL") was terminated pursuant to *Civil Service Law* §71 (that allows one year of workers' compensation leave) upon her exhaustion of her leave. Prior to her termination, she requested an exam with EHS to be returned to work pursuant to 4 NYCRR §5.9(d), which DOL disregarded because they requested documentation regarding her fitness for duty, which was not provided. On the basis that she requested her return to work, but was denied the opportunity to prove her fitness, as the regulation affords, this office challenged the actions of DOL in an Article 78 proceeding.

On September 23, 2019, the Supreme Court stated that, due to the failure of the member to provide the documentation DOL requested and conditioned the EHS exam upon, the member's termination was not arbitrary, capricious, irrational, or contrary to law. In holding this way, the Court indicated that DOL should have been afforded the opportunity to make a determination as to her fitness for duty based on medical evidence. This holding controverted our argument that, DOL's determination (regardless of documentation) was that she was not fit for duty and, pursuant to the regulation, was then entitled to an EHS exam and the remainder of her due process protections afforded by the regulation.

This office received the Appellate Division's decision unanimously upholding the order of the Supreme

Court, Albany County. As this was a unanimous decision, there exists no appeal by right rather any appeal must be brought by a motion for leave to appeal.

We have reviewed the matter and determined that there may be meritorious grounds on which to seek leave to appeal. Accordingly, we submitted a motion for leave to appeal and now await the Court's decision.

Retiree Health Insurance Case

Unfortunately, on September 24, 2018, we received an adverse decision from the federal district judge assigned to this case. The case had been pending for nearly 7 years.

As we have previously reported, PEF and several other unions sued the State in federal court challenging the State's 2011 unilateral increase in State retirees' contributions to their health insurance premiums. Given the wide impact of this case, we coordinated the discovery and litigation strategy with several other unions who filed similar lawsuits.

In late 2017, the State defendants filed a motion for summary judgment, and we submitted a vigorous opposition to that motion. Our response was formulated and coordinated in collaboration with the other impacted unions (CSEA, UUP, NYSCOPBA and others). Of course, we tailored our response to address the facts and arguments specific to our case.

Unfortunately, the Court's September 24, 2018, Decision and Order granted the State's motion for summary judgment and ordered judgment in the State's favor. The other impacted unions received similar adverse decisions as well.

We have appealed the decision. The appeal was fully perfected and spirited oral argument was held before the United States Court of Appeals for the Second Circuit, via telephone, on June 22, 2020. PEF and ten other Unions argued that it was improper for the lower Court to have dismissed the lawsuits via summary judgment. On November 6, 2020, the Second Circuit certified two questions to go before the New York Court of Appeals to provide an advisory opinion on whether application of New York public sector contract law would yield a different result in interpreting the contract regarding retirees' rights to continued benefits at the rate applicable when they retired. The Court chose CSEA's case as the "lead case" and is reserving decision on the arguments of the other ten unions involved. PEF, in conjunction with the other unions involved, plans to file an *amicus curie* brief.

Shawn Crist, as Guardian ad Litem of Leroy Crist, III v. R.R.

On February 25, 2021, we filed an *amicus curiae* brief on a third-party action brought against one of our members in Orange County Supreme Court. In that case, Plaintiff alleged injuries sustained from a vehicular incident involving a Parole Officer and demanded a substantial amount in damages. As it was undisputed that the P.O. acted "within the scope of his employment", we argued that *Correction Law* §24 not only immunized the P.O. against any individual claims but deprived the Supreme Court of subject-matter jurisdiction to hear the instant action. Our brief was filed in conjunction with Defendant's cross-motion for dismissal.

On April 29, 2021, Judge Onofry rendered his decision and order, ultimately granting Plaintiff's motion for summary judgment as to liability and denying Defendant's cross motion for dismissal. As to the latter, Judge Onofry held that *Correction Law* § 24 was inapplicable because the P.O. was not "directly overseeing parolees", despite acting within the course of his employment at the relevant time. In reaching this decision, Judge Onofry not only declined to follow (older, yet still controlling) Third Department precedent, he relied upon a single trial-level case and zero legislative materials to conclude that *Correction Law* § 24 applies only where the "circumstances inherent in the work of parole officers and employees" are present. (Id.)

The P.O.'s attorney has filed a notice of appeal and we will continue to monitor this matter and provide support as appropriate.

K.W. v. DOCCS, et al. (Confirmation of Arbitration Award)

K.W. (Petitioner or Grievant) (a Parole Officer at the Manhattan IV Field Office), conducted an Article 33 disciplinary grievance arbitration with her employer DOCCS; at the end of which the Arbitrator determined that she was guilty of the heaviest charges in the NOD (including essentially stopping, pulling over and falsely/without authority and forcibly/with excessive force handcuffing a random motorist who insulted her; with her young child in the State vehicle; lying about the matter; and abusing her position/authority), but stopped short of termination. Instead, the Arbitrator devised a penalty, whereby she could select either of two alternate remedies: (1) DOCCS shall pay the Grievant back pay (from the period of her suspension) without reinstatement to her position as a parole officer; or (2) DOCCS shall reinstate Grievant with a work record of suspension and without back pay,

provided Grievant, on her own time and at her own expense, successfully completes a course or training program. The Arbitrator also found that DOCCS had probable cause to suspend the Grievant, but that the suspension did not take effect until a later date, due to DOCCS' improper notice of the suspension to the PEF President's designee.

Grievant chose the reinstatement option, however, DOCCS refused to cooperate with her choice and refused to return her to work. Because DOCCS refused to honor the final and binding award, we sued, under CPLR Article 75, to confirm the Award and effectuate her return to work. By and through Attorney General Letitia James' Office, DOCCS cross-moved to vacate the penalty, arguing, among other things, that Grievant's reinstatement is void as against public policy.

On May 8, 2020, we received an unfavorable Decision: the Court, (Albany County Supreme Court, Acting Supreme Court Judge, Richard M. Platkin) ruled in favor of DOCCS, including that the Arbitrator improperly failed to fully rule on charges 8-15 thus making the Award incomplete; and also that the penalty allowing the Grievant to return to work was void against strong NY public policy (which prohibits excessive force, false arrest, false imprisonment, impersonating a police officer and having one's minor child in an official State vehicle). The Court sent the matter back to the Arbitrator for a decision on charges 8-15 and a new penalty that is consistent with the Court's ruling.

The Arbitrator received the Supreme Court's decision and was planning to issue a new arbitration award per the Supreme Court's order, however, after reviewing all options with the Grievant, the Grievant decided to pursue a court appeal of the Supreme Court's decision to the next higher Court: the New York State Appellate Division for the Third Department. On or about June 8, 2020, we filed a Notice of Appeal to the Third Department, together with associated documents.

This office perfected the appeal on March 8, 2021. The State filed its response on June 7, 2021. Our reply brief was filed July 8, 2021. We are now awaiting the scheduling of oral argument.

DFS Title Modernization

On August 31, 2018, PEF filed an Article 78 proceeding in Albany County Supreme Court against the Department of Civil Service, the Civil Service Commission (CSC), and Governor Andrew M. Cuomo, challenging the CSC's decision placing the titles of Director, Financial Services Programs 1 and 2 in the non-competitive jurisdictional class and designating

them as policy influencing, and placing twenty-three (23) Investigator 1 and ten (10) Assistant Chief, Investigations titles in the exempt jurisdictional class. PEF asserted that these determinations were arbitrary, capricious, irrational, contrary to law, and violative of Article V, §6 of the New York State Constitution and *Civil Service Law* §§42 and 44.

PEF argued that there was no evidence that it was impracticable to test for the Director, Financial Services 1 and 2, Investigator and Assistant Chief, Investigations titles and that the CSC accepted DFS's conclusory assertions that the positions would be policy influencing. PEF also argued that DFS's rationale that the jurisdictional changes would improve career mobility for employees at DFS was not supported by the record.

Unfortunately, on January 6, 2020, the Albany County Supreme Court dismissed PEF's petition. In summary, Acting Supreme Court Justice L. Michael Mackey, determined that there was a rational basis for the placement of the Director, Financial Services Programs ("DFSP") 1 and 2 positions in the non-competitive jurisdictional class, as well as twenty-three (23) Investigator 1 ("Inv.1"), and ten (10) Assistant Chief, Investigations ("ACI") positions in the exempt jurisdictional class.

On February 11, 2020, PEF filed a Notice of Appeal with the Supreme Court, Appellate Division, Third Department, to preserve the right of appeal. PEF perfected its appeal with the Supreme Court, Appellate Division, Third Department on November 13, 2020. On March 15, 2021, the State filed their response to PEF's appeal. Oral argument took place on August 19, 2021, and we are awaiting a decision.

On September 16, 2021, the Appellate Division, Third Department affirmed the Supreme Court's decision. We are presently reviewing the court's decision.

PEF v. State (Statewide Vehicle Use Policy)

In response to the State's failure to negotiate the terms and conditions of our members' employment in violation of the *Taylor Law*, PEF filed an improper practice charge to challenge the November 27, 2013, State Vehicle Use Policy (Policy). The adoption of the Policy terminated the assignment of State vehicles with commuting privileges; fundamentally altered the individual assignment and use of State vehicles by shifting to a pool vehicle system; established new requirements for vehicle use logs; if employees using a State vehicle may be monitored and recorded at any time by visual, documentary, or electronic means; and

subjected members to potential disciplinary action. The improper practice charge advanced to hearings and PEF presented evidence regarding the impact of the Policy on members at ten agencies (State Liquor Authority; Department of Motor Vehicles; Department of Health; Adirondack Park Agency; Division of Homeland Security and Emergency Services; Gaming Commission; Department of Financial Services; Department of Environmental Conservation; Office of Parks, Recreation & Historic Preservation; Department of Transportation). At the conclusion of PEF's case, the State submitted a motion to dismiss the charge and PEF submitted opposition papers to the State's motion.

In a decision dated July 30, 2021, ALJ Nancy L. Burritt first determined that the vehicle use policies that existed prior to the at-issue statewide policy contained a reservation of right, retained by the employer, to revoke the individual assignment of a take-home vehicle. By virtue of this pre-existing right, the ALJ determined that our members did not have a reasonable expectation of continuing to receive a take-home vehicle for commuting. The ALJ also concluded that the use of a pool vehicle or fleet vehicle, instead of an individually assigned vehicle, is not, in and of itself, mandatorily negotiable. Accordingly, the ALJ dismissed our challenge to the change from individually assigned vehicles with commuting privileges. Regarding our challenge to the vehicle use logs, the ALJ found insufficient evidence of an increase in the employees' responsibility in the amount of recordkeeping for the Gaming Commission, DFS, DEC, OPRHP and DHSES. However, the ALJ held that we established a *prima facie* case that there is an increase in employee responsibility regarding the required vehicle logs for the SLA, DMV, DOH, APA and DOT. Consequently, the ALJ denied GOER's motion to dismiss as applied to the SLA, DMV, DOH, APA and DOT. Finally, in reliance on three 2008 cases involving CSEA, the ALJ ruled that the installation of GPS devices or audio/visual monitoring equipment in state vehicles is not a mandatory subject of negotiations.

We have determined that there are not meritorious grounds to file exceptions to the unfavorable parts of the decision, and the remainder of this case will now proceed.

Burnham et al v. GOER, et al. **(Out of Title Litigation)**

On December 22, 2020, the Legal Department filed an Article 78 proceeding in the Supreme Court of Albany County on behalf of five members, Program Research Specialists 2's, Grade 18 ("PRS 2"), employed by the New York State Police ("NYSP") This proceeding's

primary goal is to challenge the denial of their out-of-title grievance by the Governor's Office of Employee Relations ("GOER").

The background of this matter is as follows. On July 26, 2016, PEF filed an out-of-title grievance on behalf of the five members alleging that they were performing the work of an Intelligence Analyst 1, Grade 25 ("IA 1") On July 19, 2019, NYSP denied the out-of-title grievance at Step 2, a decision which was appealed to GOER at Step 3 by PEF on the members' behalf.

In the Step 3 decision, the Governor's Office of Employee Relations ("GOER") sustained the grievance but awarded no monetary compensation. GOER deferred to the Director of Classification and Compensation who found that, pursuant to desk audits done on three of the five grievants, the PRS 2's were performing OOT work, however, he found that they were performing Grade 18 work. As such, he determined no monetary compensation should be awarded. The Director of Classification and Compensation noted that since the inception of the title of PRS 2 in 2002, the minimum qualifications have changed enough that the position should be reclassified, and that Classification and Compensation is working to establish an IA series to more appropriately classify the duties that those currently classified as PRS 2's are performing.

This case was filed December 22, 2020. We filed reply papers on August 4, 2021, and we await a decision from the court.

VI. CONCLUDED LITIGATION

Dolly Bernard v. PEF, et al (Federal Litigation)

On February 17, 2021, PEF was served with a complaint filed in the Northern District of New York by Dolly Bernard, a Contract Management Specialist 1 in the Office of Victim Services at DCJS. Ms. Bernard alleged in the complaint that on August 15, 2020, she resigned her PEF membership by sending a letter to PEF Headquarters by mail, facsimile and via email to the PEF President. She claimed the letter was also sent to the Comptroller via mail, facsimile, and email.

The Complaint alleged that PEF "refused" to stop deducting her union dues. It also alleged that Ms. Bernard never received any notice from PEF or the State that she had a constitutional right not to pay member dues or fees when she was not a member of PEF.



Among other relief, the Complaint sought: (1) a declaratory judgment stating that PEF, the State defendants, violated the First and Fourteenth amendments of the Constitution by taking union dues or fees from the Plaintiff after her resignation violates her First and Fourteenth amendment rights and that any provisions in the Taylor Law and CBA that authorize or require such deductions are unconstitutional. Alternatively, it requests a judgment that the First and Fourteenth Amendments require PEF to provide Plaintiff with constitutionally adequate notice and a meaningful opportunity to object.

(2) injunctive relief prohibiting Defendants from deducting dues or fees after Plaintiff's resignation from membership;

(3) compensatory damages plus interest; and (4) attorney's fees and reasonable costs.

This case was settled by honoring Ms. Bernard's resignation from PEF and reimbursed dues in the amount of \$300. The settlement also agreed to minimal attorney's fees for Ms. Bernard's attorney's fees. In exchange, the lawsuit was dismissed.

Spence, et al. v. SUNY, et al. (Stony Brook Differentials)

This Article 78 proceeding challenged Stony Brook University Hospital's arbitrary salary adjustments to Teaching and Research Nurses 2 and 3. Unfortunately, the Court applied the high standard of review and determined that Stony Brook had a rational basis for the adjustments, and PEF was forced to file an appeal.

On June 17, 2021, we received a decision from the Appellate Division, Third Department, denying our appeal. We reviewed the decision for merit to further appeal the matter and determined that (1) we had no right to automatically appeal to the Court of Appeals and (2) we could not seek leave to appeal to the Court of Appeals. Accordingly, the Appellate Division's decision stands.

Spence and Hintz v. Lee

This office brought civil litigation in 2015 and obtained a default judgment against former PEF Division Council Leader Debbie Lee for \$64,108.88 plus interest, costs, and disbursements, which is accruing until the judgment is fully paid, based on Ms. Lee's misappropriation of PEF moneys from 2006 to 2013.

PEF is enforcing the judgment, and since June 2016, the Rockland County Sheriff's Office has been garnishing

Ms. Lee's wages. We started receiving payments in August 2016, and they are continuing monthly. Thus far, \$40,319.11 has been collected from Ms. Lee.

DFS Title Modernization

1. On March 11, 2019, the CSC issued a decision concerning our challenge to the downward reallocation of the former Bank Examiner 1 title, Grade 20, to Financial Services Specialist, Grade 18, and merger of titles to the newly created title of Financial Services Examiner. On July 10, 2019, PEF filed an Article 78 proceeding in Albany County Supreme Court, against the same respondents listed above, challenging the CSC's decision.

Unfortunately, on February 4, 2020, the Albany County Supreme Court dismissed PEF's petition. In summary, Acting Supreme Court Justice David A. Weinstein determined that a rational basis existed for the Civil Service Commission's ("Commission") decision to uphold the consolidation of the Bank Examiner ("BE") and Insurance Examiner ("IE") title series into the newly created Financial Services Examiner ("FSE") title series. Justice Weinstein further determined that the decision issued by the Director of Classification and Compensation ("Department") to reallocate BE 1, salary grade ("SG") 20, to FSE 1, SG-18, was rationally based.

On February 20, 2020, PEF filed a Notice of Appeal with the Supreme Court, Appellate Division, Third Department, to preserve the right of appeal. PEF perfected its appeal with the Supreme Court, Appellate Division, Third Department on November 19, 2020.

On February 19, 2021, the State filed its response to PEF's appeal. On March 3, 2021, PEF filed its Reply to the State's response. On June 3, 2021, oral argument was held before the Supreme Court, Appellate Division, Third Department.

Unfortunately, by decision and order dated July 15, 2021, the Appellate Division, Third Department dismissed PEF's appeal. The Court dismissed PEF's claims because it found that Respondents' determination was supported by the administrative record, and, accordingly, Respondents' decision was not arbitrary and capricious or irrational. Further, the Court determined that the Director of the Division of Classification and Compensation was merely executing his statutory duty and goal "to place similar positions in the same title with the same minimum qualifications at the same allocation" in allocating a SG-18 to the FSE 1 title. Ultimately,

under the deferential standard of review the Court held Respondents' determinations were rational.

Finally, we have determined that there are no meritorious grounds to seek leave to appeal to the New York Court of Appeals. Accordingly, PEF will not appeal this decision.

2. On November 28, 2018, PEF filed an Article 78 proceeding in Albany County Supreme Court, against the same respondents listed above, challenging the CSC's approval to create and place a certain number of Special Assistant titles within DFS in the exempt class.

Unfortunately, on May 16, 2019, the Albany County Supreme Court dismissed PEF's petition, finding that the Special Assistant titles were properly placed in the exempt class.

On March 16, 2020, PEF perfected its appeal with the Supreme Court, Appellate Division, Third Department. On July 2, 2020, the State filed its response to PEF's appeal. On October 21, 2020, the Supreme Court, Appellate Division, Third Department, heard oral argument on this matter.

Unfortunately, on December 10, 2020, the Supreme Court, Appellate Division, Third Department, affirmed the lower court's decision to dismiss PEF's Petition, finding that the Special Assistant titles were properly placed in the exempt class. Finally, we have determined that there are no meritorious grounds to seek leave to appeal to the New York Court of Appeals. Accordingly, PEF will not appeal this decision.

Spence v. DOCCS, et al. ***(Hourly Rate for Teachers)***

We filed an Article 78 proceeding on behalf of DOCCS Teachers in Albany County Supreme Court on December 6, 2018. The litigation was filed based on the belief that DOCCS was paying its teachers who worked during the summer months, less than what was statutorily permissible. Pursuant to *Civil Service Law* Section 136, petitioner Steve Drake and other teachers are paid over the 10-month academic year, which runs from September 1 through June 30. Many DOCCS teachers, including Mr. Drake, also regularly work during the summer. *Civil Service Law* 136(2) requires that each DOCCS teacher who works during the summer receive additional compensation "at the hourly rate of pay received by him (or her) in his (or her) regular position." However, it does not specifically direct how that hourly rate is calculated.

On June 5, 2019, the Court agreed with our position and granted our petition. The Court ordered the matter be remitted back to the State for reconsideration of their calculation of hourly pay rates in a manner consistent with the Court's decision and judgment. The State failed to appeal the matter.

Although several discussions took place, we concluded that the implementation was not in accordance with the Court's decision. Therefore, a second Article 78 proceeding on behalf of DOCCS Teachers was filed in Albany County Supreme Court on August 13, 2020. Unfortunately, on April 9, 2021, we received an unfavorable decision from the Albany County Supreme Court.

In its Decision the Court stated that OSC's interpretation of the relevant statutes and regulations that it administers is entitled to great weight. Therefore, the Court found that it must give deference to and not substitute its judgment for factual evaluations within OSC's area of expertise. The Court noted that Article 78 does not empower it to decide between competing methods of determining such questions and then impose its will upon the respondents. It noted that the question before the Court is not whether petitioners have provided a better, fairer, or more appropriate method for computing summer wages for teachers. Rather, it stated that the analysis is limited by law to the simple issues of whether the method ultimately employed by respondents has a rational basis and, secondarily, whether it comports with the prior Decision, Order and Judgment of the Court. The Court answered both in the affirmative and therefore dismissed the petition.

We have determined that there are no meritorious grounds to appeal. Accordingly, PEF did not appeal this decision.

Mooar et al. v. GOER et al. (Out of Title Litigation)

On May 28, 2021, we received a decision and order awarding Ms. Mooar back pay from May 21, 2015, through September 2, 2020, in the amount equal to the pay differential between the respective pay rates of SG 25 and SG 18 in this out of title work litigation.

This litigation was commenced on December 24, 2020, when our office filed an Article 78 proceeding in the Supreme Court of Albany County on behalf of Ms. Mooar, a Program Research Specialists 2, Grade 18 ("PRS 2") employed by the New York State Police ("NYSP"). By way of background, on July 19, 2016, PEF filed an out-of-title grievance on behalf of Ms. Mooar alleging that she was performing the work of

an Intelligence Analyst 1, Grade 25 ("IA 1") The out-of-title grievance was processed and appealed to Step 3, at which step GOER agreed with the director of Classification and Compensation ("Class and Comp") that while Ms. Mooar was not performing the duties of a PRS II, the work she was performing was work appropriate to a grade 18.

As such, GOER determined that Ms. Mooar was not entitled to back pay. The director of Class and Comp provided a lengthy explanation of the origins of the PRS II title as well as the IA 1 title. The director also noted that due to the multiple grievances filed by PEF members, Class and Comp performed a desk audit of six staff members: two PRS 2's, two PRS 3's, and two IA 1's. Ms. Mooar was not one of the PRS 2's audited. The Director of Classification and Compensation noted that since the inception of the title of PRS 2 in 2002, the minimum qualifications have changed enough that the position should be reclassified, and that Classification and Compensation is working to establish an IA series to more appropriately classify the duties that those currently classified as PRS 2's are performing.

As noted, on May 28, 2021, Judge Peter A. Lynch issued a decision in favor of Ms. Mooar. Judge Lynch finding that "potential reclassification is not an appropriate means to justify out of title work without pay ... [a] ccordingly, it was arbitrary and capricious to find that Petitioner engaged in out of title IA I work, but that no monetary compensation was due."

The Court ordered back pay equal to the difference between Grade 18 and Grade 25 for Ms. Mooar, for the period from May 21, 2015, through September 2, 2020. We jointly requested a clarification of the award as the time for which the Judge determined Ms. Mooar was working out of title was not correct. A new order was issued, and the Judge remanded the case to GOER for redetermination. GOER subsequently issued a redetermination letter indicating that Ms. Mooar was entitled to back pay from July 19, 2016, through April 1, 2021.

Chang et al. v. GOER et al. (Out of Title Litigation)

On December 30, 2020, the Legal Department filed an Article 78 proceeding in the Supreme Court of Albany County on behalf of Ms. Chang, a Program Research Specialists 3, Grade 23 ("PRS 3") employed by the New York State Police ("NYSP") This proceeding's primary goal is to challenge the denial of their out-of-title grievance by the Governor's Office of Employee Relations ("GOER").

The background of this matter is as follows. On July 19, 2016, PEF filed an out-of-title grievance on behalf of Ms. Chang alleging that she was performing the work of an Intelligence Analyst 1, Grade 25 ("IA 1") On July 19, 2018, NYSP denied the out-of-title grievance at Step 2, a decision which was appealed to GOER at Step 3 by PEF on the Ms. Chang's behalf.

On September 2, 2020, GOER issued a Step 3 decision. GOER ultimately agreed with the director of Classification and Compensation ("Class and Comp") that while Ms. Chang was not performing the duties of a PRS 3, the work she was performing was work appropriate to a grade 23. As such, GOER determined that Ms. Chang was not entitled to back pay. The director of Class and Comp provided a lengthy explanation of the origins of the PRS II title as well as the IA 1 title. The director also noted that due to the multiple grievances filed by PEF members, Class and Comp performed a desk audit of six staff members: two PRS 2's, two PRS 3's, and two IA 1's. The Director of Classification and Compensation noted that since the inception of the title of PRS 3 in 2002, the minimum qualifications have changed enough that the position should be reclassified, and that Classification and Compensation is working to establish an IA series to more appropriately classify the duties that those currently classified as PRS 3's are performing.

This case was filed December 24, 2020. We received the State's answer on May 3, 2021, and our reply was due July 22, 2021. A settlement was reached between the parties requiring the State to pay Ms. Chang back pay from June 18, 2017 through May 11, 2018

T.C. v. OCFS, et al. (Confirmation of Arbitration Awards)

On March 3, 2020, PEF, on behalf of Petitioner T.C., filed an Article 75 proceeding in Albany County Supreme Court against OCFS. In this proceeding, T.C. challenged OCFS' failure to abide by four Arbitration Awards, issued on March 7, 2019, April 22, 2019, April 17, 2019, and April 3, 2019. PEF argued that the portion of the April 17, 2019, Award which granted Petitioner back-pay for the period of an improper suspension from July 6, 2018, through April 17, 2019, should be confirmed.

PEF also argued that the March 7, 2019, April 22, 2019, and April 3, 2019, Awards should be confirmed in their entirety. Specifically, the petition alleges that the duly rendered Arbitration Awards were proper and within the scope, jurisdiction, and authority of the Arbitrators under the Contract, and in accordance with public policy.

This matter was resolved via a settlement that required the state to calculate and pay the back pay awarded to T.C. in accordance with the arbitration awards.

D.L. v. ITS (Confirmation of Arbitration Award)

On January 3, 2020, PEF filed a CPLR Article 75 proceeding, in Albany County Court, against ITS seeking to confirm a June 20, 2019, decision by Arbitrator Day. In this proceeding, PEF and D.L. are challenging ITS' failure to abide by Arbitrator Day's Opinion and Award. Specifically, the petition alleges that the Arbitration Award was proper and within the scope, jurisdiction, and authority of the Arbitrator under the Contract and State Law.

The Opinion and Award issued on June 20, 2019, by Arbitrator Day found that the State did not have just cause to terminate the Grievant, and the State shall immediately restore the Grievant to her position as an ITS 2 with full back pay and restoration of benefits and accruals. The State has refused to honor the Award and, as such, we have filed this proceeding.

In a Decision dated March 24, 2021, the Court dismissed our petition in its entirety stating that petitioner did not have standing to bring the Article 75 petition. The Court reasoned that PEF filed the grievance on petitioner's behalf, the caption of the Arbitrator's Opinion and Award stated "In the Matter of the Arbitration between Public Employees Federation, AFL-CIO and New York State Office of Information Technology Services," and that petitioner was unequivocally represented by PEF at the arbitration hearing. Therefore, the Court found that PEF was the real party in interest and dismissed the petition.

However, the State, in response to petition to confirm the award, argued that the award should be vacated based upon it being irrational, in violation of public policy, and they argued that the arbitrator exceeded his powers.

The Court rejected all the State's arguments and denied the motion to vacate or modify the Award. Thus, because of that denial, the Court found that it must confirm the award. Therefore, Petitioner was ultimately successful in that the Opinion and Award of the Arbitrator was confirmed.

While the State did subsequently file a Notice of Appeal to appeal, they ultimately agreed to return D.L. to duty with back pay.

Spence v. GOER et al. (Out-of-Title Litigation Challenging Assignment to Perform Duties of Institutional Safety Officer)

Beginning in July 2016, PEF was made aware that DOCCS has been assigning Parole Officers (PO), Salary Grade 21 and Senior Parole Officers (SPO), Salary Grade 24, assigned to the Nassau County Long Island Parole Office to perform the building security duties of the Institutional Safety Officer (ISO), Salary Grade 9, whenever an ISO was absent from work. These building security duties included conducting metal detector or "magnetometer" searches of all persons entering the Nassau County Long Island Parole office. The duration of these building security assignments were from one hour to eight hours of the PO's and SPO's days.

On July 28, 2016, PEF Field Representatives filed an Article 17 Out-of-Title work grievance on behalf of the 16 affected PO and SPO members. On January 4, 2017, DOCCS denied PEF's grievance at Step 2. DOCCS stated that a careful review of the grievance and information provided was completed. DOCCS determined that the duties performed by the grievants during the period in question were listed within the illustrated duties of the classification standard for a PO and a SPO.

On behalf of the 16 members, PEF Field Representatives filed an appeal of DOCCS' denial of the grievance with GOER. On November 8, 2017, GOER denied our appeal. GOER stated in its decision that since POs, SPOs and ISOs are all Peace Officers, the grievants are working within their correct job classification.

We then filed an Article 78 proceeding challenging the Step 3 Decision of GOER. On November 15, 2018, the Supreme Court in Albany County ruled against PEF, stating that the duties of a PO are similar in nature to those of an ISO. On December 7, 2018, we appealed the unfavorable decision by the Albany County Supreme Court. Unfortunately, on May 28, 2020, we received an unfavorable decision from the Supreme Court, Appellate Division, Third Department. Because the decision is unanimous, PEF did not have an automatic right to appeal to the Court of Appeals, and to do so, would have to seek permission to appeal. On June 26, 2020, PEF filed a Motion for Permission to Appeal with the Court of Appeals.

On October 23, 2020, we received correspondence from the New York State Court of Appeals denying our Motion for Leave to Appeal. Given that the New York State Court of Appeals, the highest court in New York State, has denied our Motion for Leave to Appeal, we



must report that there are no more avenues to appeal this decision and, therefore, this matter is now concluded.

***Spence, et al. v. GOER, et al.
(Out-of-Title Litigation Challenging Assignment to Perform Duties of Senior Attorney)***

On November 6, 2020, PEF brought a CPLR Article 78 petition to challenge the New York State Governor's Office of Employee Relations' ("GOER") denial of an out-of-title grievance that PEF brought on behalf of Investigative Specialist 2s employed by the New York State Office of the Medicaid Inspector General ("OMIG").

The background of this matter is as follows. On or about August 12, 2019, PEF filed an out-of-title grievance on behalf of 9 Investigative Specialist 1s, SG-18, alleging that they were improperly fulfilling a duty of a Senior Attorney SG-25, in completing out a Notice of Proposed Agency Action form. In a Step 2 decision dated August 28, 2019, OMIG denied the grievance, stating that Investigative Specialist 1s are not issuing legal actions when filling out a Notice of Proposed Agency Action (NOPAA) document. OMIG stated that grievants are using the knowledge of the law that they are required to have, and the facts gained through their investigation, to choose from a selection of pre-written legal language when drafting a NOPAA document. OMIG further noted that the NOPAA is then vetted by grievants' supervisors, legal staff, and Division Management before it is finalized, signed, and sent to the subject of the investigation.

In accordance with Article 17 of the Contract, PEF appealed the decision of OMIG to GOER via Step 3 of the grievance process. In a decision dated January 31, 2020, GOER denied the Step 3 grievance, stating that since the Office of the Medicaid Inspector General is a law enforcing entity, preparing draft documents that state the legal authority for the agency to act on violations determined by investigations is a logical extension of the duties performed by Investigative Specialist 1s. Upon receipt of GOER's Step 3 decision, PEF filed an appeal with the Director of GOER, reiterating that the NOPAA is a document that must be filled out by a Senior Attorney, and not an Investigative Specialist 1, since the NOPAA is a legal document that is served upon the subject or their representative stating the intended charges that OMIG plans on bringing against the subject.

GOER affirmed the denial of the out-of-title grievance at Step 3½ of the grievance procedure, stating that the drafting of NOPAAs is contemplated by the

Investigative Specialist 1 Civil Service Classification Standard. GOER further stated that these documents are vetted by supervisors, legal staff, and Division management before being finalized, signed, and sent to the subject of the investigations, and do not require the drafter to have the expertise of a Senior Attorney. GOER went on to state that there is no evidence that the grievants perform the full range of legal activities characteristic of a Senior Attorney, Grade 25.

In its responding papers, the State argued that GOER's decision to deny the out-of-title work grievance is supported by a rational basis in the record, and that Petitioners were not performing the duties of a Senior Attorney, Grade 25. Judge Henry Zwack issued a Decision and Order dated April 22, 2021, upholding GOER's determination.

The Decision and Order noted that the classification standard for an Investigative Specialist-1 requires extensive knowledge of law, rules, and regulations, and requires Investigators to prepare reports to be utilized by management and law enforcement in support of further civil or criminal actions. The Court further noted that it is the attorney who determines what further civil or criminal actions are to be taken, and that the attorney determines fines and sanctions, and negotiates settlements. The Court further stated that given the knowledge that is required of an Investigative Specialist-1 to investigate, it cannot be said that applying this knowledge to prepare a NOPAA is out-of-title work, or that GOER's findings that the Petitioners were not performing out-of-title work were irrational or arbitrary. We ultimately decided not to file a Notice of Appeal after analyzing the Decision and Order and seeing no meritorious grounds for an appeal.

Legislative Department

DEPARTMENTAL OPERATIONS

The PEF State and Federal Legislative Office is responsible for pursuing the state and federal legislative and political agendas established by PEF policy, as directed by the President and in cooperation with the Regional and Statewide Political Action Committees and the Executive Board.

PEF legislative staff represent the interests of PEF members on pending legislative and regulatory issues. The departmental staff monitor bill introductions, public hearings, conduct bill analysis, including the drafting of new bills, the development of amendments to pending bills, the development of testimony and memorandum in support or opposition to pending legislation and work in conjunction with the various other PEF departments to educate members on the importance of being active in the political process.

PEF staff are in constant phone and email communication with legislators and staff and representing PEF members at meetings and conferences with the NYS AFL-CIO, our internationals—SEIU and AFT—and other interest groups.

LEGISLATIVE—STATE

Our efforts to advance the passage of PEF's budget and legislative priorities continued throughout the 2021 legislative session. Key legislative issues were continually monitored and resulted in daily, direct lobbying in support of bills that would positively impact PEF members and in opposition to those that would negatively impact them.

Due to the ongoing COVID-19 pandemic, the State Capitol and Legislative Office Building were closed for the entire legislative session. However, legislative staff participated in all virtual events related to the budget, including the Governor's budget briefing, the Fiscal Policy Institute's budget briefing, AFL-CIO budget briefing and legislative budget hearings to receive stakeholder testimony on the State Fiscal Year 2021-22 budget. Listed below is the status of the PEF bills that the Legislature took action on during the 2021 session:

LEGISLATIVE ACTION ON BUDGET BILLS THAT PEF OPPOSED

Our FIGHT BACK campaign included generating thousands of individual letters to legislators; writing and delivering testimony to the fiscal committees of both houses of the Legislature at the Workforce Development, Transportation, Health, Mental Hygiene, Human Services and Public Protection budget hearings.

In addition to the traditional letter writing campaign, PEF developed several issue-specific virtual lobby days to highlight the devastating consequences of the Governor's proposed budget. The issues included: prison closures, OMH cuts, OCFS cuts, OITS privatization, retiree health care cuts and nurse shortages.

The Legislative Department staff met virtually with the program and fiscal staff in both houses of the Legislature, key members of both the Senate and Assembly and the Governor's staff to outline our concerns with certain budget proposals and to seek support for PEF's budget issues.

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

1. Budget Gap Cuts

The Governor's budget proposal assumed \$6 billion in federal aid that would not meet the current or expected future budget gap so additional revenues are needed. The Executive Proposal relied heavily on additional service cuts, privatization of public services and program consolidations, including facility closures. This was in addition to the 5,000 already vacant state positions created by the hiring freeze. PEF lobbied for a more equitable and robust system of taxation to ensure a system of shared sacrifice for the state to defeat the virus and deliver needed services to New Yorkers. The Legislature agreed with PEF and increased tax rates on some corporations as well as individuals earning over \$1 million, expected to generate an additional \$4 billion in revenue.

2. Expedited Closure of State Correctional Facilities

This proposal would have allowed the Governor to close an unlimited number of Department of Corrections and Community Supervision (DOCCS) facilities over the next two years provided that 90 days' notice is given. Current law requires 12 months' notice so that appropriate planning for inmates, staff and host communities can take place.

The Legislature amended the proposal to make it slightly better by limiting the Governor's power to 1 year instead of 2 and to require a report on staff relocation within 60 days of a closure.

3. Closure of Four OCFS Youth Facilities

The Executive Budget proposed the closure of the Goshen Secure Center, Columbia Secure Center, Red Hook Non-Secure Residential Center and Brentwood Non-Secure Residential Center. The proposal would also cut in half the notice requirement for closing these facilities from 12 to 6 months. These facilities serve the state's most at-risk youth, who are placed with the OCFS by the family court. They provide a full array of counseling, education, vocational training, health care, mental health and other services to ensure that these at-risk youth have the support necessary to lead productive lives.

The Legislature amended the proposal to remove Goshen and Brentwood from the facilities which can be closed with just 6 months' notice.

4. Suspend Notification and Community Reinvestment Requirements for Office of Mental Health

While there are references to the closure of Rockland Children's Psychiatric Center, this proposal allowed for much broader, unilateral authority to the Commissioner of OMH to close, consolidate, reduce, transfer or otherwise redesign services of hospitals, other facilities and programs operated by OMH and to implement service reductions and reconfigurations for the "cost-effective" and "efficient" operation of such hospitals. RCPC provides critical services to those with severe mental illness in an eight-county region and there are no other regional facilities capable of providing these services to this population. RCPC and the state's other mental health facilities serve some of the state's most vulnerable citizens. This legislation does not provide appropriate avenues for stakeholders and advocates to participate in this process

and provides the Commissioner with too much authority to effectuate unilateral changes in service delivery.

The Legislature rejected this unwise proposal.

5. ITS Comprehensive Technology Service Contracts

This bill is the IT version of "design-build." It would allow a single entity to circumvent the traditional process, which safeguards against fraud and abuse. The State consolidated its entire informational infrastructure into this agency just a few years ago. The state needs to provide the training and support to keep this highly sensitive and long-term, project-based work under the purview of OITS. This proposal would allow for the same firm to design and implement IT systems.

The Legislature also rejected this proposal.

6. End Income Related Monthly Adjustment Amounts (IRMAA) Reimbursement

This proposal, if signed into law, meant that effective January 1, 2021, the State would stop the automatic reimbursement of the Income Related Monthly Adjustment Amounts (IRMAA) for Medicare premiums incurred on or after January 1, 2021, for higher income (\$88,000 or more) State retirees. Higher-income retirees currently receive a greater subsidy for New York State Health Insurance Program (NYSHIP) than the amounts received by lower and middle-income retirees.

Once again, the Legislature rejected this proposal.

7. Retiree Health Care Premium Contributions

The Governor proposed to increase the percentage of retiree health care costs for State employees hired on or after October 1, 2021. Retirees' contributions would be based on years of service. The sliding scale formula would cover 50% of premiums for those with 10 years of service and increase up to 84% of premiums for those with 30 years of service.

The proposal would take effect on October 1, 2021, and only impacts new employees hired on or after that date. This proposal creates another reason for potential employees to not enter State service at a time when the State is already facing a recruitment and retention problem with many agencies.

Again, the Legislature decided to reject this proposal.

8. Freeze on Medicare Part B Reimbursement

This bill would amend section 167-a of the Civil Service Law to provide that, effective April 1, 2021, State reimbursement to eligible retirees and their dependents for the Medicare Part B standard premium shall not exceed \$148.50 per month. While this represents an increase for some, the language provides that any future increases would be subject to negotiations in the state budget, meaning they are far less likely to happen.

The Legislature once again rejected this bad proposal.

9. Discontinue Indigent Care Pool (ICP) Payments to Public Hospitals

This part of the Executive Budget would harm New York's public hospitals which were at the forefront of the COVID-19 response, including the three SUNY hospitals (Upstate, Downstate and Stony Brook) by eliminating a funding source at a time when hospitals are facing high levels of use, but desperate for additional funding, especially those that assist underserved communities.

Again, this proposal was rejected by the Legislature.

10. Merger of OASAS and OMH into the Office of Addiction and Mental Health Services

This new proposal would have given the Commissioners authority to merge the agencies with little oversight. There are many unaddressed issues with this proposal, including no real plan, the need to maintain addiction treatment centers and the need to protect Credentialed Addiction Substance Abuse Counselors (CASACs). There would also be the loss of 446 jobs through attrition.

The Legislature rejected this proposal.

BILLS PASSED BY BOTH HOUSES

1. Clinical Staffing Committees for Nurses

A.108-B (Gunther)/S.1168-A (Rivera)

This bill creates a clinical staffing committee in each general hospital to develop and oversee a clinical staffing plan.

Signed into law, June 18, 2021.

2. Provides a Report on Staffing Levels and Service Needs at OMH, OCFS and OPWDD Facilities

A.117-C (Gunther)/S.1765-A (Mannion)

This legislation requires the state to provide, on a quarterly basis, information related to the

budget and staffing at certain agency facilities. The reports must include: Justification for any proposed closures, fiscal year approved staffing levels, current staffing levels, vacant positions, waiting lists for services and staffing recruitment efforts.

3. Prohibition of Double Bunking at DOCCS Facilities

A.702 (Jones)/S.2211 (Sepulveda)

Creates a prohibition on the use of double-bunked housing in correctional facilities.

4. Prohibits Public Employers from Retaliating Against Employees for Absences Related to COVID-19

A.4063-A (Abbate)/S.4201-A (Savino)

This bill prohibits public employers from dismissing or taking other adverse disciplinary or personnel actions against a public employee related to absences related to COVID-19.

Signed into law, July 1, 2021.

5. HALT (oppose)

A.2277-A (Aubry)/S.2836 (Salazar)

This bill would limit the ability of DOCCS staff to hold inmates to acceptable standards of behavior. It would restrict the staff's choice of sanctions, thus allowing inmates to develop manipulative behavior as they know that sanctions will be limited.

Signed into law, March 31, 2021.

6. Albany Permit Parking Expansion (oppose)

A.3058 (Fahy)/S.6428 (Breslin)

This legislation would make permanent the current Albany residential parking permit pilot program. In addition, it would expand the radius of the downtown permit area to one mile from the Empire State Plaza and increase the parking spaces under the program by 750.

Signed into law, August 20, 2021.

7. Time Off for COVID-19 Vaccinations

A.3354-B (Fall)/S.2588-A (Gounardes)

Grants public employees four hours of excused leave to receive the coronavirus vaccine.

Signed into law, March 12, 2021.

8. COVID-19 Public Employee Death Benefit A.3988

(Abbate)/S.4681 (Gounardes)

Extends the public employee COVID-19 death benefit to any public employee who dies of COVID-19 related illness to December 31, 2022.

Signed into law, March 12, 2021.

9. Less is More (oppose)

A.5576-A (Forrest)/S.1144-A (Benjamin)

This bill removes the ability of parole officers to sanction parolees who violate nearly any of the terms and conditions of their parole. It removes all meaningful consequences for bad actors, ties the hands of parole officers and makes it much harder for them to help parolees transition successfully back into society.

10. Injunctive Relief

A.6096 (Abbate)/S.6065 (Gounardes)

This bill extends the expiration of injunctive relief for improper practice cases for two additional years, through June 2023.

Signed into law, June 11, 2021.

11. Creates OPWDD Budget Scorecard

A.7352 (Abinanti)/S.6292 (Mannion)

This legislation would require the Division of Budget and Office for People with Developmental Disabilities to prepare a detailed report of proposed savings and investment initiatives in the administrative and Article VII proposals in the Executive Budget.

12. PEF Pay Bill

A.8036 (Abbate)/S.7232 (Jackson)

This bill implements agreements between the state and PEF as part of the 2019-2023 contract. It further makes an appropriation for the purpose of effectuating certain provisions of the PS & T agreement.

Signed into law, June 11, 2021.

BILLS THAT PASSED ONE HOUSE

13. Salary Protection for Provisional and Temporary Employees

A.4080 (Abbate)

This bill would grant salary protection to provisional and temporary incumbents and provide salary protection to permanent incumbents who take a lateral transfer.

This bill passed the Assembly. It was not introduced in the Senate.

14. Constitutional Amendment to Protect Mental Health

A.5238 (Barrett)/S.3995 (Reichlin-Melnick)

This is a proposed Constitutional Amendment to make clear that physical and mental health are equally "matters of public concern."

This bill passed the Assembly. It was placed on the floor calendar in the Senate.

15. SUNY Appropriations (Maintenance of Effort)

A.5473-A (Glick)/S.4219 (Stavisky)

This bill would add SUNY health science centers to clarify that these facilities are included in SUNY's maintenance of effort provision. This legislation also adds building rentals and fringe benefits to items that should be included in the Maintenance of Effort provision for the SUNY and CUNY systems.

This bill passed the Assembly and was referred to the Senate Finance Committee.

16. Mandatory Reporting of Certain Convictions (oppose)

A.5495 (Glick)/S.4780 (Stavisky)

This bill would mandate that within 30 days of a conviction of a crime, any individual registered, certified or licensed by SED, report such conviction to the Department. It would also require that District Attorneys report the same. This information is already required as part of the triennial registration requirement.

This bill passed the Assembly and was referred to the Senate Higher Education Committee.

17. Equal Pay Disclosure for State Contracts

A.5773 (Glick)/S.2239 (Hoylman)

This bill will require state contractors to disclose data on employee compensation to the New York State Comptroller.

This bill passed the Assembly and was referred to the Senate Procurement Committee.

18. Waives the State's Sovereign Immunity Under ADA of 1990

A.7121 (Kelles)/S.1119 (Sanders)

This bill waives the state's sovereign immunity to liability under the Americans with Disabilities Act of 1990 and certain other federal acts.

This bill passed the Assembly and was referred to the Senate Codes Committee.

19. Prohibits an Employer from Requesting Access to Employees' Social Media Accounts

A.1861-A (Dinowitz)/S.615 (Ramos)

This bill would prohibit employers from requesting or requiring username and login information including passwords of a personal account as a condition of hiring, employment status, or for use in disciplinary actions.

This bill passed the Senate and was referred to the Assembly Labor Committee.

20. Establishes a Toll-free Hotline for Workplace Sexual Harassment Complaints

A.2035-A (Niou)/S.812-A (Biaggi)

This legislation would establish a toll-free confidential hotline for complainants of workplace sexual harassment.

This bill passed the Senate and was referred to the Assembly Governmental Employees Committee.

21. Restrictions on Consecutive Hours of Work for Nurses

A.286 (Gunther)/S.1997 (Jackson)

This bill would provide a mechanism for a civil penalty in the event an employer violates the provisions of law, which place restrictions on consecutive hours of work (“no mandatory overtime”) for nurses.

This bill passed the Senate and was referred to the Assembly Labor Committee.

22. Pension benefit if Filed for Retirement within 30 days

A.6858 (Zebrowski)/S.4411 (Skoufis)

This bill would allow beneficiaries of members who died within 30 days of filing a retirement application to choose pension benefits.

This bill passed the Senate and was referred to the Assembly Ways and Means Committee.

23. Cost/benefit Analysis

A.8159 (Bronson)/S.5356 (Breslin)

This bill requires a cost/benefit analysis before a state agency lets a contract for consultant work valued at \$1 million or more.

This bill passed the Senate and was referred to the Assembly Governmental Operations Committee.

24. Establishes the Office of Addiction and Mental Health Services (oppose)

S.5084 (Harckham)

This bill would merge the Office of Mental Health (OMH) with the Office of Addiction Services and Supports (OASAS). There are many unaddressed issues with this proposal, including no real plan, the need to maintain addiction treatment centers and the need to protect Credentialed Addiction Substance Abuse Counselors (CASACs).

This bill passed the Senate and was not introduced in the Assembly.

LEGISLATIVE—FEDERAL

PEF supported legislation such as the American Rescue Plan Act of 2021 (ARP) to provide New York with the necessary resources to help cover the large budget deficit created by the COVID-19 pandemic, resulting in decreased tax revenue and increased expenses related to health care and unemployment benefits. The ARP provided New York with \$12.75 billion in general aid and an additional \$17.2 billion in targeted aid for education, child-care, housing and other purposes. There was also \$10.6 billion allocated to county and local governments.

PEF also supports increased transportation funding and accountability of private contractors, as well as legislation to require that publicly funded infrastructure projects are managed and inspected by public employees.

PEF strongly opposes cuts to domestic programs and will continue to aggressively lobby to secure funding for Medicaid, Social Security, education, disability determination services, housing, transportation fair labor standards, veterans’ benefits, pay equity for state employees, immigration reform, infrastructure investment, education, job creation, affordable health care, safe nursing and patient care standards, mental health services, Medicare protection for seniors and those with disabilities, and other federal programs that impact our members.

PEF opposes the privatization and outsourcing of state services that transfer federal funding from state agencies to private contractors. PEF also opposes federal funding for services provided by not-for-profit organizations, academic research centers or other entities that replace the valuable services provided by public employees.

FEDERAL BUDGET

Federal funds traditionally make up approximately one-third of the New York State budget. Due to additional federal aid, this year’s state budget of nearly \$209 billion was helped by \$80.7 billion in federal funds. This funding is used for Medicaid, other health and human services programs, education, transportation, public protection and other programs.

FEDERAL LEGISLATION

PEF continues to monitor and support legislation which would positively impact our members. Some examples of positive legislation include:

1. S. 1567/H.R. 3165 Nurse Staffing Standards for Hospital Patient Safety and Quality Care Act of 2021

This bill establishes direct care registered nurse-to-patient staffing ratio requirements in hospitals and requires them to implement and submit to HHS a staffing plan that complies with specific minimum nurse-to-patient ratios by unit. Hospitals must post a notice regarding nurse-to-patient ratios in each unit and maintain records of actual ratios for each shift in each unit. PEF supports legislation that seeks to improve the safety of patients and nurses, the quality of nursing care and nursing staffing levels.

2. H.R. 1195 Workplace Violence Prevention for Health Care and Social Service Workers Act

This bill requires the Department of Labor to address workplace violence in the health care and social service sectors. Specifically, DOL must promulgate an occupational safety and health standard that requires certain employers in the health care and social service sectors, as well as employers in sectors that conduct activities similar to the activities in the health care and social service sectors, to develop and implement a comprehensive plan for protecting health care workers, social service workers and other personnel from workplace violence.

This bill passed the House on April 16, 2021.

3. H.R. 1976 Medicare for All Act of 2021

This bill establishes a national health insurance program that is administered by the Department of Health and Human Services (HHS). Among other requirements, the program must (1) cover all U.S. residents; (2) provide for automatic enrollment of individuals upon birth or residency in the United States; and (3) cover items and services that are medically necessary or appropriate to maintain health or to diagnose, treat, or rehabilitate a health condition, including hospital services, prescription drugs, mental health and substance abuse treatment, dental and vision services and long-term care. The bill prohibits cost-sharing (e.g. deductibles, co-insurance and co-payments) and other charges for covered services. Additionally, private health insurers and employers may only offer coverage that is supplemental to, and not duplicative of, benefits provided under the program.

4. S. 53/H.R. 603 Raise the Wage Act of 2021

This legislation would create a federal minimum wage of \$15/hour within six years for most

workers. It would also increase wages for tipped workers, newly hired workers under the age of 20 and individuals with disabilities.

5. S. 420/H.R. 842 Protecting the Right to Organize (PRO) Act of 2021

This bill amends and modernizes the National Labor Relations Act (NLRA) by strengthening federal laws to protect workers and close legal loopholes which deprive workers of their right to organize for better wages, benefits and working conditions. It would also establish a process for mediation and arbitration to help the parties achieve a first contract.

This bill passed the House on March 9, 2021.

6. S. 1147/H.R. 303 Retired Pay Restoration Act

This bill would allow for the receipt of both military retired pay and veterans' disability compensation with respect to any service-connected disability. Individuals who were retired or separated from military service due to a service-connected disability shall be eligible for the full concurrent receipt of both veterans' disability compensation and either military retired pay or combat-related special pay.

7. H.R. 3225 Public Safety Employer-Employee Cooperation Act

This bill creates the right for public safety officers to bargain over working conditions such as hours, wages and terms and conditions of employment. The bill also provides for binding interest arbitration as a mechanism to resolve an impasse in collective bargaining negotiations. Finally, the bill creates the right of enforcement of all rights and responsibilities agreed to between employer and labor organization by either (a) state administrative agency or (b) any court of competent jurisdiction.

STATEWIDE AND REGIONAL POLITICAL ACTION (PAC) ISSUES

The statewide Political Action Committee (SWPAC) and the Executive Board approved the 2022 drafts of the state and federal legislative agendas. These draft agendas will be presented to the Convention delegates. Endorsement of local and state candidates also took place through the prescribed process at SWPAC and the Executive Board.

Legislative staff attended virtual meetings at various regions across the state. Regional Coordinators and

Regional PAC members were updated about the state and federal budget, as well as the concept of an early retirement incentive (ERI) and PEF's position on that. Staff also participated in the ALF-CIO's political directors and labor lobbyists meetings held during the legislative session.

Regional PACs also held their own virtual lobby days regarding the budget and end of session legislative priorities, including the newly introduced Nurse Employment, Enhancement and Dignity (NEED) Act.

Several PEF departments also began to engage in the development of a campaign to highlight the need to

reinvigorate funding and staffing in order for state agencies to support the services they provide. The "Fund our Future" campaign is working with staff from AFT, SEIU and community organizations to develop a grassroots approach to mount a long-term campaign around the restoration and maintenance of high quality public services.

Respectfully Submitted,
Patrick Lyons
PEF Legislative Director

Communications Department

The Communications Department is PEF's creative branch and the driving force behind media coverage, online content, social media, signage, printed materials, and media campaigns that support PEF's views, activities, and policies. Department staff design and facilitate production of thousands of printed materials and multimedia content, including postcards, brochures, banners, posters, stickers, and billboards, as well as PEF merchandise, such as hats, shirts, buttons, and anything else you can imagine.

The communications director and staff of five work as a team to advance the priorities and strengths of the union, assisting PEF leaders in their campaigns for strong contracts, job security for members, informing and engaging members about the value of the union, and enhancing PEF's role in communities throughout the state. The department is instrumental in developing and promoting the union's views, activities and policies through media and social media outlets, community relations, the Communicator, the website, and advertising.

OCT. 2020–SEPT. 2021 HIGHLIGHTS

Contract and Member Engagement

Communications staff reported on and supported PEF's successful negotiation for a successor contract. Throughout the course of the year, staff wrote stories and posted factsheets sharing highlights of the agreement with members and encouraging members to vote and return their ballots.

Through social media, the *Communicator*, emails, and the PEF website, the Communications Department promoted the #PEFDoesIt! campaign and spotlighted the vital role PEF members played during the COVID-19 pandemic. The graphics team designed and arranged printing of the 2019-2023 PS&T Contract for distribution to members.

As the COVID-19 pandemic continued to limit the ability of PEF Divisions and Regions to hold

traditional member meetings, picnics and social events, Communications assisted PEF Organizing as they traveled around the state for Membership Engagement events, providing giveaways and messaging.

Convention

The team played an instrumental role leading up to the 2021 Convention, designing the pin, the delegate bag, all the signage at the venue, the Yearbook, Annual Report and Program Guide, in addition to working with a video production team to create a video introducing the Convention theme, *Fund Our Future for a Thriving New York*. On site, staff will assist with video coverage, photography, workshop and plenary session coverage and social media updates.

Media Coverage

The team continued to promote PEF in the news media, reacting quickly to the State's decisions on a variety of issues, including mandating vaccination among certain state workers, delivering often confusing telecommuting guidance, critical understaffing at various agencies, and more. Various media outlets, including the *New York Times*, ABC, CBS and NBC News, and the Associated Press, picked up statements throughout the year. PEF President Wayne Spence appeared as a guest on the statewide public affairs show *Empire State Weekly* twice and *Capital Tonight with Susan Arbetter* four times. Opinion pieces and commentary were placed in high-profile publications like *The New York Daily News*, *Albany Times Union* and *The Gothamist* spotlighting PEF's position on cuts to mental health care in New York and design-build flaws with the Mario Cuomo (Tappan Zee) Bridge. Coverage in the union's digital newsletter *The Communicator* included feature stories about members and the value of unionism, as well as historical stories about the labor movement.

Social Media

Both the Facebook (@PublicEmployeesFederation) and Twitter (@NYSPEF) pages continue to attract more "likes" and "followers" every month, with the official PEF Facebook page averaging 3,583 post engagements

per week as of August 2021. PEF Twitter has more than 2,700 followers and is updated multiple times daily with stories and information members may find useful or interesting.

PEF.org

Over the course of the last year, Communications worked with the MIS team to revamp and improve the PEF website. The new site boasts a much-improved visual aesthetic and responsive design, which resizes and formats for whatever device and platform visitors are using. The new look is much more dynamic, allowing Communications staff to surface a variety of multimedia content. Staff writes the copy and designs the art on the website, using it as the primary tool to deliver health and safety and benefits information to members in a timely fashion. When something new is posted, it is also shared on PEF social media channels to try and reach as much of the membership as possible. The website features photos from rallies, contract actions and campaigns, announces town hall meetings, and provides information on current labor issues.

Legislative Advocacy

Working with the Legislative Office, the Communications Department designed and distributed clear and concise fact sheets and brochures on PEF's legislative priorities and budget positions, helping spread the union's agenda to state legislators. Getting PEF's needs in front of lawmakers resulted in a number of positive successes for PEF this legislative session (see Legislative Office report). Staff supported letter-writing campaigns for Nurse Lobby Day, opposition to "Less Is More" parole reform, and fought against other bills that would negatively affect the population PEF members serve.

The Communicator

The department produces PEF's digital publication, *The Communicator*, published 10 times a year and available on the website. It is also emailed to members who provide home email addresses. Any member

who does not receive it and wishes to can sign up here: <https://www.pef.org/ecomunicator-signup/>. Department staff plans, researches, interviews, photographs, writes, edits, designs and sells digital ads for the publication, as well as for the *eCommunicator Plus*, an update of each month's issue with some new stories that is sent to members about 10 days after the full *Communicator*.

Headquarters Improvements

A history of PEF mural, similar to the one in the New York City office, is complete on the first floor of the headquarters building on Troy-Schenectady Road in Latham. The Convention photo taken at the 2019 Convention adorns the stairwell leading to the second floor and a wall-length collage of the current PEF administration spans the hallways to the right of reception.

Staff also worked on frosted glass designs for the second-floor conference room at headquarters and redesigned the bulletin board artwork in the lobby. The graphic design team designed the new, lighted sign on the face of the building at the entrance to headquarters, as well as similar signage in the building.

Staffing Changes

The department welcomed Lauryn Schrom as the new junior graphic artist in March 2021.

Statewide Facilities Management

The Statewide Facilities Department handles many functions, from maintenance of PEF locations, warehouse storage, mail, copying, PEF vehicle maintenance, and other facility needs.

As part of the Department's functions, it deals with regional office moves, including the recent new Region 2 office lease and the move of the legislative office to PEF Headquarters. In addition, the Department was and remains focused on workplace safety protocols at all PEF offices. Finally, the Department was an integral part in the major renovations that helped headquarters move from an outdated workplace to a state-of-the-art building.

PEF signed a new lease for Region 2. The office remains at the Chamber of Commerce building in Hornell but has received a much-needed update. When visiting the office you will notice new carpet, paint, and ceiling tiles. We also installed new CAT 6 data lines.

With respect to the Legislative Office, that office was moved from downtown Albany to a dedicated spot on the first floor of HQ. This saves expenses and allows staff to work more efficiently using HQ resources and equipment.

The Department concluded the move into a smaller warehouse. This resulted in the warehouse being downsized from 10,000 square feet to 3,000 square feet. This new location allows us to better organize while saving on the cost. We were able to do this by shredding old files past their retention period. We have also implemented a comprehensive inventory for each department.

The Department has also implemented a new safety and preventative management program at Headquarters, which will include new cleaning and sanitizing programs. Every month a walk thru will be performed to identify any safety or maintenance issues that can be addressed in a timely manner.

In addition, new MERV 13 filters have been installed in the new HVAC units.

The Department also renegotiated some of the vendor contracts with the goal of securing the best terms for PEF. We have secured a new vendor for cleaning HQ which will save PEF approximately \$1,000 a month.

Lastly, Headquarters was extensively renovated to bring the building up to code. The building is about 40 years old and was long overdue for major renovations. The project started with the replacement of the outdated roof which was original to the building and well past its useful life. The new roof is energy efficient. Next, the entire HVAC system was replaced with new energy-efficient units. This upgrade will allow for better air flow and better air quality in the building. These units are equipped with MERV 13 filters. All the old windows, which were also original to the building, have been replaced with new energy efficient windows. These windows will reflect the sun to keep the office cool in the Summer and warm in the Winter. A new fire alarm system was installed that is monitored by an outside vendor. This vendor will send test signals twice a day to make sure the system is functioning properly and will inspect the system twice a year. Previously, the system was only able to sound an alarm within the building, leaving PEF vulnerable if nobody was in the building at the time of the alarm.

The bathrooms at HQ were fully redone, replacing the residential style with a layout designed for commercial usage. They are also now compliant with the ADA. A single-use bathroom was added on the first floor for family use or for those not wishing to gender identify. The PEF conference rooms were rearranged to allow for the most people possible without columns blocking views (as was the case in the old configuration). The main conference room can now accommodate large groups or be partitioned into three separate rooms. A new patio for lunches and meetings, as weather permits, was added. All carpet in the building was removed, replacing thread worn and ripped carpeting. All light fixtures were replaced with new

energy efficient LED lights. New ceiling tiles were installed, along with new doors and hardware, paint, and ceramic floor tiles. The outdoor landscaping was improved, replacing the old and overgrown landscape. As you enter the building, there is a mural on the walls spanning PEF's history.

During the past year one of our staff members, Gary Cunningham, retired after 36 years of service to PEF. We wish Gary a happy and healthy retirement. The department welcomed Jeff Schaffer to fill the spot in February 2021. Jeff's background and experience will be a great asset to the department.



Education & Training

The PEF Education and Training Department works to provide quality services to PEF members in a variety of ways. The department develops and delivers classroom and online courses and conferences; brokers educational opportunities and provides technical assistance. 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

Staff coordinated the logistics, wrote creative curriculum, and presented interactive workshops at:

- Individual Agency Labor/Management Trainings
- Statewide Labor/Management Advisory Conferences
- Steward Trainings, both in person and virtually
- Student Debt Clinic virtually for all PEF members
- Workshops at the annual Convention
- Membership Meetings throughout the State
- Prepared and conducted membership surveys through Survey Monkey

In addition, during this pandemic, Education and Training staff have assisted virtually by answering overflow telephone calls and emails for the PEF membership. In addition, staff has participated in Hustle capabilities to reach out to members regarding various issues.

Deliverables Under Article 15 of the Contract – Since the Contract has been ratified, the Article 15 benefits will be back up and running once all the guidelines and applications have been written by staff and the State. Once the information is available, it will be posted on the PEF website.

Statewide Field Services

Field Services' central function is to protect bargaining unit members and their union rights under the Collective Bargaining Agreement, in conjunction with applicable laws, rules and regulations through a variety of means. This includes negotiations, grievance handling, improper practice charges, and strong advocacy in achieving gains for PEF and its membership. Field Services is also the gateway to services in many other areas of PEF and serves as the first line for intakes to other departments.

Furthermore, Field Services works in concert with our Organizing and Divisions Departments and engages and assists PEF members at every level with strengthening divisions, attending meetings, conducting steward trainings, and maintaining the highest quality of professional representation to all PEF members throughout New York State. In the wake of COVID, we have migrated to a monthly virtual Steward training program which has been well attended. Virtual training has provided for consistent and high-quality training for our Leaders across the State while maximizing our limited staffing resources.

The Field Services Department has 15 support staff members who work in conjunction with a Labor Management Assistant. These roles are crucial to the department's operations, as support staff processes grievances, files important paperwork and mailings, and provides centralized telephone and labor communications to our dedicated PEF members.

The Department also has 30 Field Representatives whose essential elements include:

- Advise and assist Division Councils and PEF represented employees regarding workplace related matters;
- Provide assistance in a timely manner to employees and PEF leaders regarding their rights and benefits under the Agreement and all applicable laws;
- Identify violations of the Contract, and successively prepare, file, and process grievances through Step Three.
- Represent Grievants in disciplinary matters up to, and including, arbitration, and assist in termination cases where PEF provides an attorney for the arbitration.
- Act as Chief Negotiator for PEF's smaller bargaining units such as Allegheny County, Albany Housing Authority, Albany County Probation, and Canal Corporation.
- 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 and its members in matters of local concern 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 Representative, as the expert advisor to the respective Agency-Level L/M team on labor relations matters and attend preliminary 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.
- Act as a primary liaison for referrals to appropriate PEF Departments on behalf of our activists and members for questions beyond the scope of our expertise (e.g., civil service, legal, health and safety, requests for organizing activities, divisions and internal PEF structures).
- Assist PEF Organizing in reaching our members, whether to join the union or in other organizing efforts.
- Offer resources and information on processes available to members relating to discrimination, including referrals to PEF's Joint Affirmative Action Advisory Committee and PEF's contracted consultant.

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

- Participated in trainings on how to handle individuals in a mental health or substance abuse crisis and how to preserve their well-being in high stress situations;
- Responded to thousands of requests for information and support. With an already steady stream of member inquiries, Field Services' requests have surged during the pandemic. Field Services has provided information, support, and guidance to our PEF members in a time of need and consistently provides the reassurance that our Department is here and ready.
- Lodged many complaints with employers on behalf of our members' best interests;
- Filed and processed hundreds of Contract Grievances and filed and processed numerous Article 17 (out-of-title work) Grievances.
- Worked with elected Leaders and PEF staff in campaigns to fight for members' rights;
- Processed disciplinary matters, from interrogation through resolution;
- Acted as lead advocate in hundreds of interrogations;
- Field Services also handles and maintains approximately 60-70 Improper Practices each year and brings approximately a dozen new Improper Practices before PERB. Approximately a dozen to two dozen cases are withdrawn and closed annually.
- Led and participated in monthly steward trainings;
- Prepared numerous legal, civil service enforcement and contract administration intakes.

Organizing

Heading out of the PEF 2020 convention, the landscape for PEF's organizing was extremely challenging.

With COVID cases on the rise and a vaccine still on the horizon, we knew that the last quarter of 2020 and the calendar year 2021 was going to be all about adapting to the conditions that the pandemic was generating.

PEF organizing continued our work, strengthening local and statewide divisions by working with leaders and activists to make their workplace voices stronger through solidarity. The previous year we had begun to build a strong foundation, that was built not only on the institutional knowledge of longtime leaders but the inspiration coming from newly elected leaders and stewards. This inspiration changed to true leadership throughout the pandemic as leaders fought to keep their workplace safe and healthy for our members. These leaders were successful in keeping their divisions nimble and more able to address the needs and issues of their members.

Organizing kicked off the new year by hosting member appreciation events all over the State and covering as many agencies as possible. Organizing met with members of DOCCS, OPWDD, DOH, OMH, and many other agencies in every region to say thank you for their continued commitment to keeping our communities healthy and striving. As the year moved forward, Organizing shifted gears and utilized these events to additionally sign-up new hires and convert them into new PEF members. Additionally, as PEF moved closer to securing a contract these events also allowed the opportunity to team up with the contract team to talk to members about the tentative agreement. Organizing events gave members the opportunity to ask questions and get answers from members of the contract team. Both the membership and the contract team benefited from these events and were very appreciative of these opportunities.

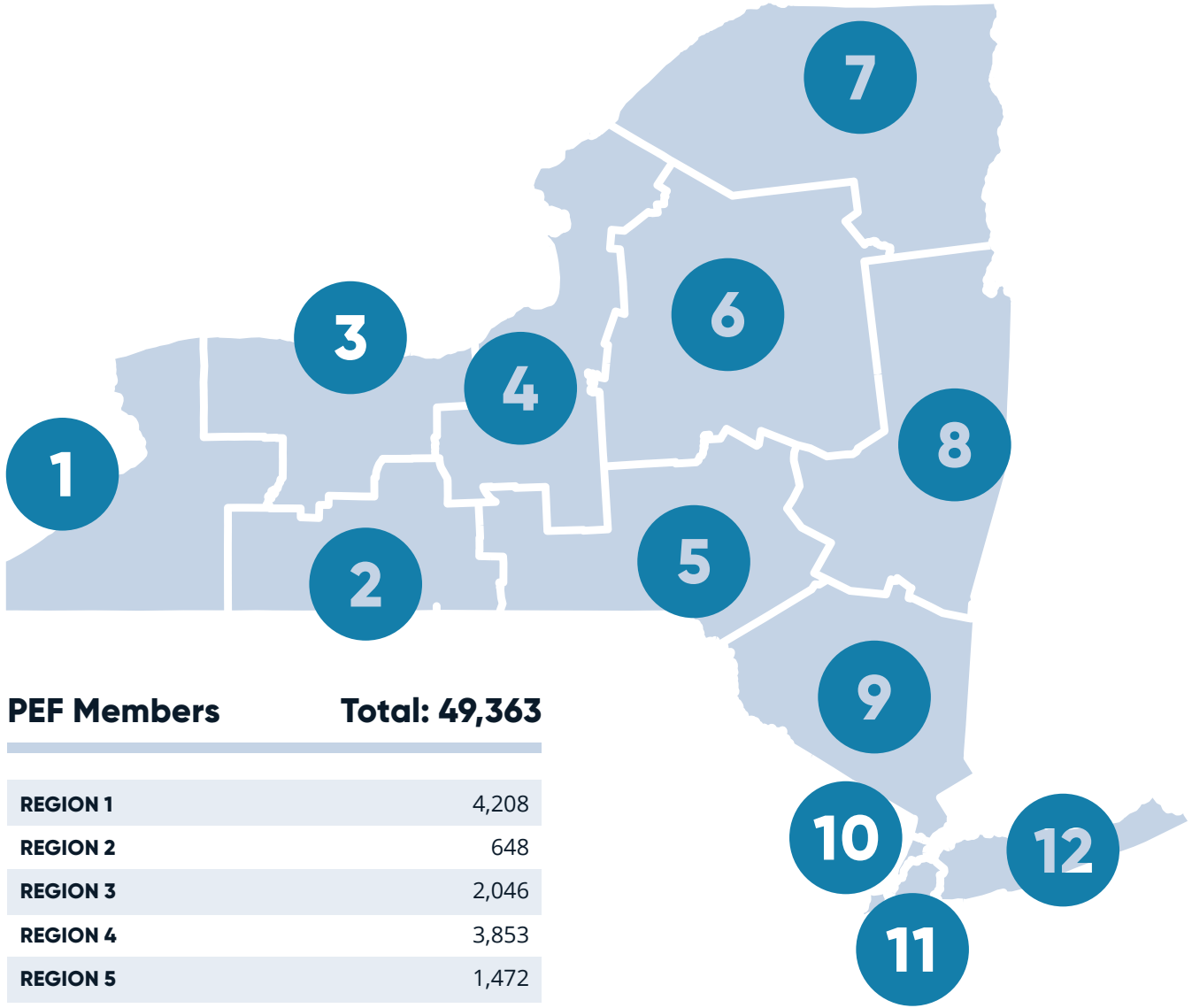
During the summer months Organizing worked with leaders at every level to communicate and engage PEF members in other ways regarding information about the tentative agreement. Organizing reached out to leaders to offer our services to host virtual meetings through the Zoom platform. One great example of this type of outreach was on display when the Contract

Team reached a tentative agreement during contract negotiations. Organizing coordinated with Regional Coordinators and local leaders as the Contract Team offered multiple informational Zooms to each region. These Zooms were important as they provided our leaders and the contract team an opportunity to deliver helpful information to our members so they could cast an informed vote.

After the contract was ratified, Organizing continued to host membership appreciation events around the State. The focus of the events shifted as we began to encompass a new campaign. After conversations with our PEF leadership, AFT, SEIU, and In the Public Interest (an organization fighting back against the privatization of public services) we have begun to embark on a multi-year, coalition campaign to fight for the crucial services our membership deliver to NYS communities. Out of these conversations our new "Fund Our Future" campaign was born. This campaign will remind New Yorkers that the State will thrive only when we invest in the public services that improve everyone's lives. Education, healthcare, infrastructure, and social services are crucial to ensuring New York's role as a pioneer when it comes to providing for its citizens. As we move forward with this campaign, we will need leaders like you to help us promote and recruit participants within our membership but equally important, stakeholder and partners within our communities. Religious, social, advocacy, and not-for-profit organizations are going to be key components to building this successful coalition and your outreach will help us bring them on board. We ask that you take the "Fund Our Future" survey found at PEF.org/FundOurFuture to tell us how you can help the campaign.

As 2021 comes to an end and we enter a new year, Organizing will continue to develop innovative ways to engage and strengthen PEF. This upcoming year our union will face many challenges. We will broaden our fight and organize to Fund Our Future. We will continue to build new relationships and empower our local leaders. We will work with the new regional leadership teams to engage with their members and to host more events across the state. Organizing is looking forward to working with our membership to ensure that our voices are heard during these trying and uncertain times.

Membership by Region



PEF Members **Total: 49,363**

REGION	MEMBERS
REGION 1	4,208
REGION 2	648
REGION 3	2,046
REGION 4	3,853
REGION 5	1,472
REGION 6	1,581
REGION 7	1,200
REGION 8	18,137
REGION 9	3,774
REGION 10	4,241
REGION 11	3,685
REGION 12	4,492
REGION 13	26

Contract Administration

The Contract Administration Department's primary responsibilities are the negotiation, Statewide administration, and enforcement of the PEF/State Agreement for the Professional Scientific and & Technical Services (PS&T) Unit as well as the negotiation and enforcement of collective bargaining agreements for the other units that PEF represents.

OVERVIEW

The Contract Administration Department provides training, professional and legal advice and assistance, and administrative support to the PEF Contract Team in each round of negotiations. The Department is also the day-to-day liaison with the Governor's Office of Employee Relations (GOER) on Statewide labor relations issues. Additionally, we provide contract interpretation assistance and advice to union leadership and Field Service staff; assist agency L/M committees on issues involving contract interpretation and/or negotiation of agency-specific understandings, assist members having health insurance problems; and represent the union in contract grievances at triage and arbitration.

The Department currently operates under the supervision of the Director of Contract Administration and is staffed by two Contract Administration Associate Counsels, one Health Benefits Specialist, and a Contract Administration Department Assistant.

Notable activities of the Department this year included the following:

PS&T Unit Negotiations

Contract Administration staff assisted the PEF bargaining team in negotiating the 2019-2023 PEF/State Agreement which was overwhelmingly ratified by the membership on July 27, 2021. Contract Administration staff also participated in dozens of membership meetings and Town Hall presentations on the status of negotiations and on the terms of the 2019-2023 Agreement. The Contract Administration Department oversaw the issuance of an RFP on PEF's behalf to explore the issue of bringing the dental benefit for PS&T members in-house. In addition, Contract Administration was involved in the

negotiation of several COVID-19 related agreements with GOER concerning matters such as accruals, telecommuting, and COVID testing.

Contract Enforcement and Administration

Contract Administration staff are 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 contractual grievance process. Contract Administration has central responsibility for administering the Article 34 contractual grievance process at Step 3 (GOER) and at Step 4 (Arbitration). 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 triage and 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 meets regularly, typically bi-monthly, with representatives from GOER and our Triage Arbitrator to present, argue, and attempt to resolve individual contract grievances in Triage. The vast majority of the contract grievances we handle are resolved in this process. There are occasions when grievances cannot be effectively resolved through Triage and Expedited Arbitration. This typically occurs in State-wide class action grievances which present significant contract interpretation questions and are more appropriate for full arbitration.

Other Bargaining Unit Negotiations

Contract Administration also provides professional and legal advice and assistance to PEF leadership, Field Services and our bargaining teams at the Albany County Probation Department, Albany Housing Authority, Allegany County, and the NYS Canal Corporation.

This past year, Contract Administration assisted Field Services and our Albany Housing Authority (AHA) negotiating team in impasse proceedings at PERB. After a final mediation session on August 27, 2020, the impasse in negotiations was successfully resolved. A tentative CBA was finalized and approved by the PEF Executive Board and was ratified by the membership and approved by the AHA Board and implemented without issue. Upcoming this year, Contract Administration will be assisting Field Services in the negotiation of a successor CBA for our unit at the Albany County Department of Probation.

Locally Negotiated Agreements

Contract Administration attorneys continue to review issues related to both local and agency-wide agreements. Many of these agreements involve Article 12 (attendance and leave) and Article 25 (seniority) of the PEF/State Contract. They include shift and pass day agreements for nurses, block vacation scheduling agreements, overtime bidding, parking fee agreements, alternative work schedule and telecommuting agreements.

As a rule, PEF leaders are to consult with their Field Representative when they feel an agreement is needed and/or when management requests PEF's approval of an agreement or policy. It is not unusual for management to approach local PEF leaders to sign off on a "policy" when it would be advisable to have more formal meetings, discussion and/or negotiations that result in a signed memorandum of agreement. Our goal, as always, is to help elected PEF leaders negotiate the most favorable terms for our members and to enforce the terms of negotiated agreements in all of PEF's bargaining units.

Joint Committees and Appeals Panels

A number of the benefits which our members enjoy are funded and administered through various contractual joint labor/management committees. Contract Administration staff participate in a number of these joint committees, including the Joint Committee on Health Benefits, the Professional Development Committee, the Work-Life Services Advisory Board, the Albany Parking Committee, the Law Enforcement Committee, and the new Joint Committee on Seasonal and Temporary Employees Paid on an Hourly Basis and the Joint Committee on a Pre-Tax Parking Benefit. Contract Administration Attorneys provide assistance to the internal PEF Grievance Appeals Committee and serve as the union's designee on the Statewide Tripartite Performance Evaluation Appeals Panel.

Health Benefits

The Contract Administration's Health Benefits Specialist works to ensure PS&T Unit members receive the benefits to which they are entitled through the New York State Health Insurance Program (NYSHIP), as well as the NYS Dental and Vision Plans. This includes

- staffing the Joint Committee on Health Benefits
- providing information and assistance to members with health benefits concerns
- providing technical assistance to the PS&T contract team and to the other bargaining units PEF represents
- reviewing RFPs and vendor proposals for health, dental and vision plan contracts and monitoring implementation of health benefits changes once negotiations conclude

This year, as always, a significant portion of health benefits staff time involved assisting our members with individual health benefits enrollment and coverage issues. In 2021, health benefits staff

- provided technical advice and assistance to the PS&T and Albany Housing Authority contract teams
- participated in the annual HMO review process
- prepared memorandums to union leadership and articles for the e-Communicator and for PEF social media
- updated the PEF Health Benefits webpage with health benefits

The Health Benefits Specialist will work with the Joint Committee on Health Benefits in its work with the State to develop a voluntary Value Based Insurance Design pilot program as well as a voluntary Telemedicine pilot program in accordance with the terms of the 2019-2023 PEF/State Agreement.

Retirees

Outreach to Delegates:

We encourage all delegates participating in the 2021 PEF Convention to reach out to PEF members in their division who are retiring and to encourage them to continue their membership in the union as a PEF Retiree member. New Member retiree kits are available from the PEF Retirees Office.

The PEF Retirees Office is responsible for advocating on behalf of the PEF Retiree membership. The Officers and Retiree Executive Board Members strive to protect the benefits of PEF Retirees that were earned during their career in state service.

Office Operations:

The PEF Retirees Office Staff responds to hundreds of inquiries each week concerning membership enrollment, dental and vision benefit information, retiree benefits and members who wish to continue their involvement with the union. Calls are fielded to the state for pension (1-866-805-0990) www.ocs.state.ny.us/retire/ and health insurance matters to (1-800-833-4344) www.cs.ny.gov/employee-benefits

To contact the PEF Retirees Office, please call 1-800-342-4306 x 288, or email rmango@pef.org or pveteramo@pef.org. PEF Retirees need to have your current email address and cell phone number.

The PEF Retirees are a growing segment of PEF and as of September 2021, we reached a milestone of **20,000** members strong.

Membership in the PEF Retirees is free for the first year for eligible state employees who retired after April 2006. Thereafter, the membership dues are paid monthly if a member elects to have the dues automatically deducted from their NYS Pension.

78 percent of PEF Retiree members elect to pay their membership dues by pension deduction.

Retiree Chapters:

The PEF Retirees have 12 statewide chapters, each of which has a Chapter President who works with their

team of elected officers. Most chapters will hold on average four general membership meetings per year, including an annual holiday party and summer picnic. The meetings are well attended and provide a useful forum for networking and reconnecting with fellow retirees. Guest speakers provide information on retiree programs. The Chapter Presidents are all volunteers, advocates and previous PEF members, many of whom served on the PEF Executive Board.

Dental, Vision and Hearing:

The Retiree Dental Plan is administered through **Sun Life Financial** and participating members benefit from an improved plan offering affordable dental care. The plan offers access to a national network of over 300,000 providers. Sign up for the PEF Retiree Dental Plan by calling Sun Life Financial at 1-844-738-8118 (Group Number 5487131).

The PEF Retirees Vision Plan is administered through **Davis Vision** (Vision Works). This plan is available to retiree members and their families for an annual fee and offers a comprehensive eye glass or contact lens benefit. The plan offers access to a national network of over 50,000 providers throughout the 50 states. For more details on how to find a provider, or how to enroll, please visit www.pefmbp.com and click on the insurance link and follow to retiree benefits. To purchase the plan, please call PEF Membership Benefits program at 1-800-342-4306 x 243.

The Retiree Hearing discount plan administered through **Hear in America** offers a free annual hearing screening and access to 2,200 hearing locations nationwide. For further information call 1-800-286-6149, or visit the website at www.hearinamerica.com

PEF Membership Benefits:

PEF Retiree members are able to participate in a number of PEF Membership Benefit Programs benefits, including discounted movie tickets and ski lift tickets, discounted gift cards, special discounts on theme parks and water parks, defensive driving course, financial planning and credit counseling services, a free higher education benefit and a voluntary legal service plan. A monthly e-newsletter is distributed to PEF

retirees with notification of retiree Chapter meetings and special benefit promotions. Subscribe to receive your monthly newsletter by visiting www.pefmbp.com.

Notable Committee Information:

The PEF Retirees has one appointed member on the PEF Executive Board. Other appointments include a PAC, Women’s, and Veterans Committee representative. A retiree representative is also appointed to sit on the ROC (Retiree Organization Council) Committee. PEF Retirees work together with the active PEF membership on political and member engagement efforts via phone banking, literature distribution, rally participation and general volunteer action items.

Convention:

The PEF Retirees are usually active participants at the annual PEF Convention. This year due to COVID concerns, we will not be attending. The Retiree

Executive Board would normally schedule one of their meetings at the PEF Convention to interact with the PEF leadership and convention delegates.

Communicator Articles:

The PEF Retiree Statewide President, Jim Carr, submits an article for each Communicator publication. Important issues including health care, retiree benefits preservation and retirement issues are addressed. These articles also create awareness of developments in matters relating to state retirement and social security.

Unity and strength in numbers will help ensure the quality we all seek in our golden years.

Membership Benefits Program

The PEF Membership Benefits Program (PEF MBP) Trust is a separate entity from the union (PEF). 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 PEF Membership Benefits Program nor its offerings for members.

PEF MBP offers active, dues-paying PEF members and PEF retirees a wide variety of statewide and regional benefits including: insurance protection, legal services, financial planning and credit counseling support, educational seminars and webinars, a free and low-cost education benefit, and more. Very attractive discounts are also available on a multitude of items such as movie tickets, theme and water park tickets, ski lift tickets, attractions, sports and performing arts events and over 50 different gift cards. There is something for everyone!

The mission of the PEF Membership Benefits Program is to provide exemplary member service, quality programs (thoroughly researched), and benefits that enrich the lives of our members.

Despite COVID-19 restrictions, PEF Membership Benefits Program has continued to provide the membership with quality programming, events, and services. We hope that 2022 will offer more opportunities for PEF MBP to travel and visit each region.

INSURANCE PROGRAMS:

Modified Open Enrollment for Group Term Life, Short-Term and Long-Term Disability

PEF Membership Benefits Program implemented two Modified Open Enrollment campaigns; September 1, 2020, through October 31, 2020, and April 1, 2021 through May 28, 2021. During this time, over 4,000 PEF members took full advantage of the opportunity to enroll for the first time, or to increase their existing coverage in any one or more of these valuable insurance offerings.

Exam Fee Reimbursements

PEF members can apply for reimbursement of both New York State Open Competitive Exams and Promotional Exams. To qualify, you must be an active, dues-paying PEF member at the time the exam is taken and at the time the application is received by PEF MBP. In addition, you must provide PEF MBP with a copy of the exam grade, as only exams that receive a passing grade of 70 are reimbursed. Applications for reimbursement must be submitted within 60 days of receipt of the exam grade notification from NYS Civil Service. There was a very limited number of exams reimbursed in 2019-2020, due to COVID-19.

ATAC: Assault, Trauma, & Captivity Coverage

This benefit insures the trauma associated with a criminal assault, as defined by the NYS Penal Code, or a captive situation, while the member is pursuing his/her occupational duties. All active dues-paying PEF members are eligible for this free coverage.

During the 2020/21 coverage period, the PEF Membership Benefits Program provided over \$29,500 in ATAC insurance claim benefits to members assaulted on the job.

Discount Ticket Sales

Discount tickets continue to be an extremely popular benefit. Since August 1, 2020, members placed over 11,000 orders, totaling nearly \$1.2 million. Currently, the PEF Membership Benefits Program offers 352 different types of tickets for venues across the following entertainment sectors: amusement parks, water parks, sporting events, ski resorts, movie theaters, and performing arts. The over 11,000 orders also included gift card orders for from our mix of over 50 different retail cards. Contracting with new suppliers remains an ongoing endeavor and results in several new items annually.

PEF MBP Family Day Event

The 2021 summer season was the 4th season for the hosting of the very popular and well-attended PEF MBP Family Day Events. Due to COVID-19 and social distancing restrictions implemented at theme park venues in New York State, PEF MBP was able to host

only one Family Day Event during the 2021 season. This event took place at Six Flags Great Adventure in New Jersey. Over 2,658 tickets were purchased by PEF members and PEF retirees. PEF MBP looks forward to hosting three Family Day Events, once again, in 2022. Watch your email for details!

Educational Webinars:

During 2020, PEF MBP hosted over 24 educational webinars for PEF members and retirees. Webinar topics included: Retirement Planning, Elder Law Planning, The Value of Trusts, Debt Management, Investment Planning, Tax Planning, Supplemental Insurance, Modified Open Enrollment, Funeral Planning, COVID-19 and Its Impact on Your Finances. In addition, special PEF MBP Benefits presentations were conducted for Parole, Nurses, and the "O" agencies.

PEF MBP's Engagement Efforts:

During 2020, PEF MBP's engagement efforts (staffing of informational tables and conducting MBP benefit presentations) were minimal due to COVID-19 and travel restrictions. PEF MBP hopes to travel to support 2022 membership meetings, new member orientations, fairs, etc. Remember, when a PEF MBP representative has the opportunity to conduct a formal 10-15 minute presentation at your membership meeting, PEF MBP will reimburse your division \$2.00 per member attended, for food purchased for your meeting. To schedule a PEF MBP representative to attend your event, simply complete and submit the

online meeting request form at: pefmbp.com/who-we-are/resources-for-pef-leaders, or call (800) 785-1900, ext. 356. At least 30 days advance notice with your invitation, is very much appreciated.

Email Marketing & Social Media:

Over 46,000 PEF members and over 12,000 PEF retirees subscribe to receive PEF MBP email communications including monthly e-newsletters, targeted benefit promotional offers, new benefit announcements, seminar/webinar invitations, and much more. MBP distributed over 4,889,582 emails during the past year. Subscribing to receive emails is the best way for members to stay apprised of MBP offerings. MBP continues to grow its social media presence on Facebook, Instagram, Twitter and LinkedIn. Following PEF MBP on Facebook provides you the opportunity to be one of the first to learn about special promotions and contests for a chance to win free tickets to special events/venues. Members can follow MBP on Facebook (<https://www.facebook.com/pefmbp/>), Twitter (<https://twitter.com/pefmbp/>), Instagram (<https://www.instagram.com/pefmbp/>) and LinkedIn (<https://www.linkedin.com/company/pefmbp/>).

Defensive Driving Classes:

In 2021, over 2000 members and retirees took advantage of the online course offering, in order to reduce the rate of their auto/motorcycle insurance premium, 10% each year, for three years.

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

BUFFALO – Region 1

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

HORNELL – Region 2

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

LONG ISLAND – Region 12

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

NYC – Region 10 & 11

(212) 227-3132 / (800) 522-8700
(866) 897-9775
FAX (212) 964-3571

(718) 637-2019

FAX (718) 637-2024

POTSDAM – Region 7

(315) 261-4464 / (888)-498-8532
FAX (315) 261-4229

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

Accounting	261	Legal	241
Albany Field Office	228	Legal Fax	(518)-785-1323
Accounting Fax	(518)-313-7457	Legislative Office	(518)-432-4003
Civil Service Enforcement	280		(800)-724-4997
Communications	300	Legis. Office Fax	(518)-432-7739
Contract Administration	223	Mailroom	401
Con. Admin. Fax	(518)-313-7763	Membership Benefits	243
Divisions	231	MBP Fax	(518)-783-5339
Divisions Finance	232	MIS	221
Education & Training	254	MIS Service	308
Executive Office	470	Organizing	227
Health Benefits	283	PEF Trustees	411
Health & Safety	254	PR Fax	(518)-785-8174
Health & Safety Fax	(518)-250-7839	President's Fax	(518)-783-1117
Human Resources	212 or 214	Retirees Office	288
HR Confidential fax	(518)-218-9235	Statewide Field Offices	425

Other Important Numbers

PEF Emergency Hotline: (888)-850-7409

AAA/NYC	(212)-484-3220	GOER	(518)-473-8375	Scholarships ...	(800)-342-4306 x221
Aflac	(518)-477-9538	Liberty Mutual Ins ...	(888)-747-2146	SEFCU	(800)-727-3328
AFT/Wash.DC	(800)-238-1133	MetLife	(800)-438-6388		(518)-452-8183
Defensive Driving	(800)-427-2365	NYSUT/Albany	(518)-213-6000	SEIU/Wash	(800)-424-8592
EAP - members	(800)-822-0244		(800)-342-9810	UUP	(800)-342-4206
EAP - staff	(800)-252-4555	PEF/PSTP	(800)-342-4306		

