

**New York State Department of Labor
Statewide PEF Labor Management Meeting
March 23, 2018**

MINUTES

MANAGEMENT	
Geoff von Bieberstein, OER Director, Co-Chair	Roberta Reardon, Commissioner (MOVI)
Mary Batch, Dep. Comm. Employment Security	Mario Musolino, Executive Deputy Commissioner
Karen Coleman, Dep. Comm. Workforce Development	Nathalie Carey, Dep. Comm. Administration and Chief Financial Officer
Darlene Shattuck, Personnel	James Rogers, Dep. Comm. Worker Protection
Susan Borenstein, UIAB	Bo Wynnyk, Research & Statistics
Jeanette Lazelle, DIPA	Maura McCann, Labor Standards
Selica Grant, DEOD	Chris Alund, Public Work
Eric LaPan, Personnel	Russ Oliver, DEWS
Tina Pan, Personnel	Paul Danaher, Property
Deborah Lilley, Personnel	Vince Coyne, OSI
Justin Kennedy, LEAD	Vince Rapacciuolo, DOSH
Rich Wilcox, Admin	Lesley Papparone, UI
Patricia Cahill, OER, Mgmt. Recorder	
PEF	
Heather Sedlock, PEF Co-Chair	Angel Cook, PEF
Bob Beckwith, PEF Staff	Cathy Okenica, PEF
Tara Bentley, PEF Recorder	Ed Swierkowski, PEF
Scarlett Ahmed, PEF	Christine Werns, PEF

HANDOUTS

Budget Section:

1. Federal, State Budget, UI Trust Fund Status Update
2. Monthly Summary Position Allocation & Spending by Major Division
3. PEF Count of Employees by Division
4. Permanent Employees
5. PEF Hourly Employees
6. Leases
7. Number of Hourly vs Permanent LSRs & Employment Counselors by office location and division

UI Section:

8. Initial Claims

1. Welcome/Introductions

2. Commissioner/Executive Deputy Commissioner's Comments

Commissioner Reardon

There have been very productive conversations with both PEF President Wayne Spence, and CSEA President Danny Donohue, which will be ongoing, to work through issues. I have deep respect for union members rights and for the ability to speak up for those rights. In any labor management relationship there will always be issues to work through, hopefully in a reasonable and respectful manner. Continued dialogue and open communication between the parties is vitally important. Labor management meetings are a great conflict resolution tool. It is very important to have regularly scheduled regional labor management meetings- even if there are no apparent issues. Ed Vargas has a long history working as an advocate for employees, and is now a management representative in local labor management meetings. He reliably communicates the issues addressed during these meetings to the executives.

The agency has been in discussion with Michael Volforte of GOER regarding the possibility of conducting trainings which could be held for both management and union representatives to be sure all are aware of the best practices for handling grievances and addressing uncomfortable issues as they occur.

Low staffing levels in Labor Standards is an area of concern. The impact of impending federal budget cuts is making it difficult to be able to fill vacancies. Workload issues are not exclusive to Labor Standards, but that division presents the greatest strain at the moment. The affected employees are out in the public in often difficult circumstances. Employee Relations and Personnel have discussed this and are working to establish a work group. This will be a committee of affected workers and managers to discuss possible creative solutions - such as alternate ways of scheduling, handling field work, addressing workload, and the amount of required work hours vs field hours. The goal is for all employees to be able to work to their fullest capacity, without being overworked and underappreciated.

Executive Deputy Commissioner Musolino

The Federal and State budgets are both currently a work in progress, and we are cautiously optimistic about the results. The proposed Federal budget is better than previously anticipated and, if passed, will allow the department to maintain the status quo.

3. Budget – Nathaalie Carey

A - G. – Handouts.

Jack Dougherty is the recently hired Director of Finance, and will attend the June statewide labor management meeting.

Although the agency is happy there are no reductions included in the budget, being held equal can be equivalent to a reduction. The agency predominantly funds people – cost per person, especially fringe benefits and raises, has gone up, but the funding hasn't. When the federal budget is approved, the funding will run through October, the end of the federal fiscal year.

State appropriation plan has been submitted, and largely accepted by Division of Budget. The ceiling cap is the difference between cash ceiling and what you appropriate. This is not a percentage, it is based on what the state can afford. Each year DOL increases the appropriation number requested to ensure flexibility. DOL will ask during year to have the cash ceiling increased. The "up to" limit is the appropriation number.

DOL indicates that PEF does not have to wait until the labor management meeting to ask a financial/budget question – the questions can be sent via email.

PEF submitted several budget questions at the close of the meeting. Geoff von Biebersteing responded via email after consultation with DOL Finance.

H. Changes in the list of lease expiration dates – Paul Danaher

QUESTION: Flushing - while the landlord's agent was visiting the office, he told several staff members DOL would be leaving this location. Is this true?

Troy – will the TCC employees be coming back to Building 12 or staying in Troy? Was a deal made for political reasons to stay in Troy?

ANSWER: DOL is in active lease negotiations regarding the Flushing location, and the current landlord is included in those negotiations. To date, no determination has been made.

DOL is considering all options, on a preliminary basis, to make the best cost saving decision regarding the Troy TCC location. No decision was made for political reasons.

4. Division of Administration and Finance – Geoff von Bieberstein

A. Division Update

1) OER

a. Status of Performance Evaluation Appeal Board(s)

- The Unsatisfactory Evaluation Appeal Board for the NYC area is now operable. The panel members are Sandra Koslow (Management), Julie Saxon (PEF), and Eliana Palmay. They are actively scheduling appeals and will soon be able to dispose of the moderate backlog.

Geoff and Bob Beckwith will continue working toward establishing a Buffalo area board.

OER is maintaining a focus on building labor management relationships, and communicating with the union representatives on a more frequent basis.

The new full time EAP Coordinator, Roxanna Garcia, will begin on April 2, 2018.

2) Personnel – Darlene Shattuck

- a. Any plans for new titles, reclassification or earmarking of existing titles, redefining job descriptions/duties, or other changes to a title?**
 - No current plans.

- b. Union requests update regarding use of electronic list canvassing.**
 - Currently only allowed to canvass via email for the PCO and entry level Office Assistant 1 titles. Per Civil Service, this is going well and may be expanded in the future.

- c. Update regarding eligibility requirements for promotional exam to Grade 20 Associate Safety Inspector. Will Grade 16 Safety Inspector title incumbents be allowed to take exam?**
 - The last exam was held in 2013. A tentative class standard was issued to both Personnel and the unions – this does not list all the titles eligible for the position. Per Civil Service, standards will list direct line titles, not all titles that will be on exam announcements. DOL cannot confirm which titles will be included as the exam has not yet been announced. The concerns expressed by the union have been shared with Civil Service.

- d. Union requests discussion regarding DOL philosophy of hourly vs permanent staff. – Nathaalie Carey**

Currently, there are 293 hourly employees agency wide, which is less than 10% of the total 3200-member DOL workforce. 63% of the hourly employees are PEF represented.

DOL is 85% grant funded, and the agency needs to apply for those grants annually. The agency is provided a stop loss – which basically guarantees the funding will not drop below a certain level. The number of permanent staff is based on that figure. A portion of the grant funding is flexible, and not guaranteed to be received annually. DOL must therefore be flexible with staffing, to avoid overextending, and utilize hourly employees. For example, the UI administrative grant will be received each year. But areas such as re-employment services are not guaranteed– the new budget proposes distributing this grant to all states. If that passes, NY would lose money because it previously had the largest grant funded program.

The agency is aware of the issue, but must manage staffing within the confines of funding sources available. There are some hourly employees who could never feasibly be reached due to their exam score – if a permanent employee was to be hired in their unit, that would mean the hourly would lose their job. The agency's main goal is to get as many employees as possible into permanent positions where it is convinced their positions would continue to exist.

Some divisions use hourlies more than others because their program is more heavily grant funded. In 2017, 79 hourly employees were moved to permanent status. Forty-nine of the 79 hourlies were in DEWS during the period October-December.

Hiring managers are provided a sheet of information which they should be discussing with potential candidates. Hourly employees and the union are included in the New Hire Orientation, and the information is communicated at that time. Because DOL hourlies tend to be long term employees, the agency will also reach out to Civil Service to discuss the possibility of including more detailed information on the job vacancy announcements. Hourly employees who have taken exams can reach out to Personnel to discuss their position on the list.

PEF requests that to the best of its ability the agency maximizes the number of employees made permanent to avoid having an unnecessary number of hourly employees.

- e. Union requests discussion regarding eligibility of hourly employees for excused time for cancer screening.**
 - Hourly employees are eligible – when they are hired, payroll adds those hours onto LATS.
 - Previously, men were allowed 4 hours of prostate cancer screening and 4 hours of breast cancer screening leave. Women were allowed 4 hours of breast cancer screening leave. Effective March 18, 2018, all employees will receive 4 hours of "cancer screening."

3) Technology/Miscellaneous – Nathaalie Carey

- a. Update – File sharing drop for Labor Standards and other Investigator positions who work frequently outside of the office.**
 - Continuing to work with ITS to establish a file sharing program. The cost of some of the solutions proposed by ITS is too great for the agency to invest in. There are other proposals which may be feasible and are currently under review.

b. NYSDOL website re-design RFP

- The current website platform is unsupportable. Bids have been received in response to the RFP, and a vendor could be selected shortly. Until that happens, ITS is backing up all the data to new servers. Designing the DOL website is not a function of ITS.
- Intranet site redesign – working with ITS to move to a SharePoint platform. This work is delayed due to change in ITS staff who were working on this project.

5. Unemployment Insurance Division – Mary Batch

A. Division Update

A new UI Director has been hired and the official announcement is forthcoming. He comes to DOL from another state - his extensive credentials include his position as UI Director, and his work with the Appeal Board.

Overall, workload levels are down by 2% from the prior year. The report reflects an increase in December- that is because December 31st is typically the busiest day of the year.

Since the last meeting, 95 new hires in UI, 47 of which are PEF represented titles.

B. Update of RFP for Mainframe – is the purpose of this to replace Mainframe?

UI Modernization Project is still in procurement stage. A Project Director (separate RFP) will be hired to work directly with the vendor to ensure the interests of the State are maintained.

A technology unit is being developed to work on several projects. This unit will include a new UI title, Business Systems Analyst 3, that will be working on legacy based applications. That information will be shared with the UI Planning and Development Unit, to ensure consistency in the new system.

Other projects:

- Transitioning phone system from Avaya to Verizon- within a year.
- Expanding NYBE with multiple other state agencies. This is the business portal which will include E-registration.
- Transitioning from Image plus system to new FileNet system.

6. Research and Statistics – Bo Wynnyk

A. Division Update

One new economist has been hired. Currently recruiting entry level positions - two statisticians and two economists.

Current project – working with other state agencies to help the census bureau build a master address file for the 2020 census.

7. UI Appeal Board – Susan Borenstein

A. Division Update

In the process of recruiting ALJs for the Brooklyn office, and a Business Systems Analyst 2 for Troy. One ALJ in Garden City has been promoted to Senior ALJ.

Lower authority – average case age is 24. 56% of the decisions out within 30 days; 84% out within 45 days.

Higher authority appeals- average case age is higher than normal at 57.6 days. This is due to the large number of Department of Education appeals.

MLC- last element requires a review of cases from 1990-1998. 8000 opt-in letters were mailed out. Two hourly administrative staff, and two hourly ALJs will be hired to assist with this work.

Several upgrade projects in process:

- Curam upgrade (case management system) – the project is going well and will include enhancements. The project is scheduled to take nine months, with user testing in June. The upgraded system we are hopeful will be able to associate case numbers
- Liberty Court Reporter System – the recording system has been shutting off during hearings. Working with ITS to have this system upgraded.
- UI Modernization – includes a new appeal board system.
- Data warehouse project – copy and move all data to a central data warehouse, which will enable UIAB to more easily create reports.

B. Splitting cases

1) Discussion of current splitting process and associated functions

This issue is due to the inability of the current case management system to associate case numbers. Splitting cases creates issues for the judges when writing the decisions and closing out the cases. The biggest impact is in NYC, where the largest volume and most complex cases are held, and therefore more cases are split.

A committee was formed to address the issue. A chart was created detailing how to calendar/schedule the cases, so that each case is allotted more time if split. Two judges developed a more compact method of writing decisions to alleviate the formatting problems when closing out the cases in the system. Two judges are conducting a Webinar – how to cut and paste decisions without creating a formatting problem, and will hold individualized trainings if necessary.

- 2) Impact on ALJ backlogs
and**
- 3) ALJs requesting one writing day per week**

The workload is only considered to be a backlog when there are at least eight hearings with decisions that need to be written. When the hearings are scheduled, extra time is added to each so that writing time is available at the end of the hearing. Writing time can also be conducted when there is a hearing default- the parties do not show.

Downstate, where the problem is the greatest, all judges are scheduled one writing day biweekly. If there is no backlog on their writing day, the judge may get pooled cases – covering a hearing if the scheduled judge is out unexpectedly.

There is a 22% increase in decisions, which means an increase in revenue generated.

8. Division of Employment and Workforce Solutions (DEWS) – Russ Oliver.

A. Division Update

Training for staff in May and June:

- May 23-24 – Albany for Business Services staff to discuss WIOA and labor market information
- June 4-6 – Albany for Employment Counselors
- June 14, 20 and 28 – Leadership meetings for DOL Managers
- Staff training – there will be 9 sessions around the state for line staff LSRs to discuss WIOA and related issues. Dates will be announced.

Branding for career centers – 33 areas. The order is out for completion now. There will be one brand on all centers. Centers will receive a 16” or 22” decal.

51 total staff have been hired since December 2017, 50 of which are PEF.

B. Update on the Manager and SLSR promotions

Recent hires: two Managers (Central Office, Finger Lakes), four Supervisors (Jamaica, Niagara Falls, Haverstraw, Schermerhorn).

Recruiting to fill: three Managers (Schermerhorn, Amsterdam, Glens Falls).

C. Union requests brief overview of Veterans (DVOP, LVR) funding and any associated hiring implications (Permanent vs Hourly).

10% of staff is hourly. There are 69 veterans currently, with 7 more coming soon. Prior to the 2014 policy, 65% of all veterans who came into the career center were served by a veteran. That has now dropped to 35%.

D. Union requests discussion regarding feasibility of including additional information such as “What to bring” and Customer # on Two Way Communication notices to DEWS claimants.

This topic can be addressed outside the parameter of a labor management meeting. Kerry Douglas-Duffy is reviewing this topic. The process must be consistent statewide and therefore the agency does not have the ability to customize this to specific career centers. REOS notifications are sent 2 days prior to the appointment. Customers coming in are referencing the communication rather than the paper letter, which shows the advances made by using two-way communication. The desired future goal is to provide this information via email.

QUESTION: Bond Street LSRs who primarily deal with RESEA customers have been instructed to conduct a desk interview if the customer appears to have potential wage theft, discrimination or human rights violation issue. This would cause a backup in dealing with the RESEA customers. Is this accurate?

ANSWER: Program is not aware of this happening, but will review and follow-up.

9. Worker Protection – Division Updates – James Rogers

Management fully understands that staff are overburdened and morale is low, especially in the wage investigation units of Public Work and Labor Standards.

There were many unexpected changes at the Varick Street location - several long-term employees left at the same time, causing the need for a new management team to be selected. Federal agencies have a case number threshold and often refer workers to DOL. DOL tries to receive help by asking for criminal prosecution in order to send a message and hopefully prevent more of these cases from occurring.

The wage investigation/enforcement team has unparalleled success in the nation, even in comparison to states with larger departments. Four years ago, DOL brought in eighteen million

dollars a year in wage recovery. Now, that total has increased to thirty-six million, with the wages distributed to thirty thousand workers. That huge turnaround is due to the staff. The unionized staff, due to their training and support, are what make it all work so well.

A. Safety & Health – Vince Rapacciuolo

Staffing updates- hired one S&H Inspector grade 16 in Albany, one S&H Inspector was reinstated in White Plains, three staff retired.

B. Public Work – Chris Alund

Hired one Investigative Officer 1 position, and promoted five grade 20s.

Over last eight months 13 have been promoted – which is more than 50% of management staff. Staff recognizes and appreciates that fact. Promotional and entrance exams will be held in April, and staff have been encouraged to take them.

C. Labor Standards – Maura McCann

Currently Labor Standards has 110 PEF represented employees, two MCs, and the remaining are clerical staff. There are four new grade 25s.

Since the last meeting, there were four promotions, one reinstatement, two retirements, and one transfer out of the agency. Currently recruiting to fill two grade 20s and clerical items. Labor Standards previously cut down drastically on clerical staff in favor of filling professional staff. But the consequences of that are now being felt, and recruiting additional clerical staff will help to create a good balance.

Staff are performing at an extremely high level. The division is trying to balance the workload so that the NYC area is not overburdened. Workload measurements and redistributions were reviewed in an effort to try and balance out the work load. A positive effect was noted – In 2017 NYC, received 560 fewer cases than in 2016.

Labor Standards historically scheduled a monthly training day. A new monthly office day has now been instituted– all staff are in the office on the same day. This helps keep the lines of communication open and creates scheduled time for staff to meet with their supervisor. The division feels the work group is a great idea and could be a viable alternative to implementing LEAN projects.

D. Special Investigations – Vince Coyne

2017 was a difficult year for staffing in OSI – the loss of both assistant directors and eight investigators causing a dramatic hit on productivity and morale. Due to the low staffing levels, Supervisors began double duty by also investigating. New Assistant Directors have been appointed in both upstate and downstate. Five investigators and

two administrative staff will be promoted this quarter. The promotions have been a great morale booster.

For the 2nd year in a row, OSI set a record in restitution in NYS. The Governor issued press releases on this accomplishment.

The Major Case unit works on the most complex cases. They recently worked with two different federal programs, USDOL and Welfare. The subject of the investigation stole \$800,000. They were convicted, receiving a prison sentence and must pay restitution. DOL has already received the first check associated with this for \$255,000.

OSI brought thirty-five million dollars back into the trust fund, which helps to secure that fund and helps to decrease the contributions for employees. Sends message out to those ineligible to receive benefits – that if they attempt to steal benefits they will be investigated and prosecuted. In 2017 437 cases were referred to law enforcement. Average of these cases was \$8000 – which is an increase from 2 years prior. This type of fraud and volume still exists, even when unemployment goes down.

For three months, the standards for investigators were reviewed. This resulted in the standard being lowered due to the complexity of the investigations, and the amount of work involved. In 2017 OSI wrote 17,000 overpayments. NYS uses a database to cross reference all incoming incarcerated individuals with the UI system, to stop fraud immediately. Most states are losing between twenty and thirty million dollars a year from incarceration fraud. NYS DOL saves two million dollars.

Two investigators created a query for OSI which enables them to pull all information from the database on a claimant or employer at once.

For benefit of newly hired investigators, OSI just completed a video series on every investigative level. This training video describes the duties and responsibilities of the job, the administrative work and the challenges faced.

E. Division of Immigrant Policies and Affairs – Jeanette Lazelle

DIPA is fully staffed at 21. There is an increase in workload as the H2A and H2B visa applications are submitted. The percentage nationwide has increased by 20%, but DOL is seeing a 22-25% increase with employers in NYS. Because of this, duties have been shifted among existing staff to ensure all is accomplished within the regulated time frame. Staff are preparing to visit the farms on outreach. Other staff are doing outreach to immigrant communities around the state. Many are doing both.

Nathalie Carey-

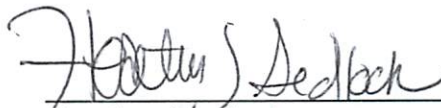
Organizational Awareness – informational webinars are being conducted to provide employees information on the work performed in other areas of the agency. Deputies and staff members create and conduct the presentations. The intent is to give employees access to see the other work performed at DOL, which may also make them aware of potential promotional opportunities available to them within the agency. Each division will conduct one live webinar to include a Q&A, which will be recorded and available for viewing by those unable to attend the live version. UI had 400 attendees at their recent webinar, 250 for DEWS, and 208 for Worker Protection.

2018 MEETING SCHEDULE:

June 27, 2018 – 10:00 A.M. – Room 544
August 8, 2018 – 10:00 A.M. – Room 544
November 28, 2018– 10:00 A.M. – Room 544



Geoff von Bieberstein
Director of Employee Relations
Management Co-Chair



Heather Sedlock
PEF Co-Chair