



# **THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION TESTIMONY**

Senate Standing Committee On Disabilities Public Hearing:

Impact of the Workforce Crisis on Individuals with  
Developmental Disabilities

September 13, 2021

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Good afternoon Chairperson Mannion, members of the committee and distinguished guests. My name is Randi DiAntonio and I am the Vice President of the Public Employees Federation (PEF). Thank you for the opportunity to speak on behalf of our 50,000 members about the impact of the staffing crisis on individuals with developmental disabilities. Our union is made up of professional, scientific and technical experts who provide critical services to the residents and taxpayers of New York State. Serving as the state’s frontline essential workers during the COVID-19 pandemic, our members have risked their lives and those of their families to maintain the continuity and quality of services to New York’s most vulnerable citizens, most especially those with developmental disabilities.

**I. STAFFING CRISIS AND THE PROVISION OF QUALITY CARE**

**A. Inadequate Staffing Hurts the Quality of Care**

The state of New York has embarked on a long-term effort to reduce funding and staffing at all of its agencies. OPWDD has seen some of the most dramatic reductions in staffing over time. This has negatively impacted the availability and continuity of services for New Yorkers with intellectual and developmental disabilities.

**TABLE 1<sup>1</sup>**  
**NYS State Human Resource Allocation for New Yorkers**  
**with Intellectual and Developmental Disabilities**

	<b>Staffing 2011</b>	<b>Staffing 2020</b>	<b>Difference</b>	<b>Percent Decrease</b>
<b>OPWDD</b>	23,348	19,595	-3,753	-16%

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<sup>1</sup> “New York State Agency Use of Overtime,” <https://www.osc.state.ny.us/files/reports/special-topics/2021/pdf/overtime-2021.pdf>

This reduction in staff is directly attributable to the imposition of “bare bones” budgeting at all of the state agencies that has been in place for years so the state can remain under the arbitrary 2% annual state spending cap. This budgeting approach left the state ill-prepared to address the pandemic and has hampered the ability of the state to meet its ethical obligations to maintain the continuity of quality and accessible services for many at-risk New Yorkers, including individuals with developmental disabilities. During this crisis, the systemic understaffing at OPWDD, combined with staff quarantines and infections, has left the state ill-prepared to address its serious staffing needs. The 2021-2022 OPWDD budget projects the staffing level to be at 18,572 FTEs. This is 1,000 fewer staff at OPWDD compared to just last year.

The state has been operating with 5,000 fewer employees since the hiring freeze was effectuated in the Spring of 2020. Many of these positions provide direct patient care like nurses. The failure to backfill vacated positions has led to significantly increased clinical caseloads and coverage of larger geographic areas. This, in turn, ultimately negatively affects quality and access to care as the remaining staff are stretched thinner and thinner.

**B. Over-Reliance on Mandated Overtime Hurts the Quality of Care**

The lack of staff, combined with the state hiring freeze and other logistical challenges posed by the pandemic, helped drive the overall cost of overtime across all state agencies to \$850 million in 2020.

**TABLE 2<sup>2</sup>**

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<sup>2</sup> New York State Agency Use of Overtime,” <https://www.osc.state.ny.us/files/reports/special-topics/2021/pdf/overtime-2021.pdf>

**Growth of Overtime to Address Systemic Staffing Shortages at OPWDD**

	<b>2011</b>	<b>2020</b>	<b>Difference</b>	<b>Percentage</b>
Number of Staff	23,348	19,595	3,753	-16%
OT Costs	\$95.1 Million	\$156.7 Million	\$61.6 Million	+65%

OPWDD spent \$156.7 million in overtime costs, which made up 18.4% of the state’s total overtime expenses in 2020. OPWDD had the most overtime, with 4.7 million hours, accounting for nearly 25% of the 19.1 million overtime hours worked by state employees. On average, staff at OPWDD worked 235 hours of overtime in 2020.

**TABLE 3  
Impact of Overtime on OPWDD Staff During COVID-19**

<b>Total OT Pay</b>	<b>Pay % Change 2019-20</b>	<b>Total OT Hours Worked</b>	<b>Average OT Per Person Per Pay Period</b>
\$156.7 million	3.7%	4,685,852	19.0

It is also important to note that these costs do not include payments by agencies for “agency” or contract nurses. These individuals are hired on an individual basis and are not members of the bargaining unit. Our members report that these nurses are receiving higher pay, do not maintain regular caseloads and receive more favorable shifts than full-time staff.

**C. Short-Staffing Facilitated the Spread of COVID-19**

Obviously, nurses, habilitation service specialists and other direct care staff were more highly impacted by overtime and forced redeployments than other staff. Habilitation service specialists were often redeployed to homes to address coverage gaps caused by short staffing. The lack of management communication with front line staff, inadequate testing requirements and inconsistent contact tracing protocols caused the virus to spread through group homes as staff unknowingly brought the virus from home to home as they

were redeployed to cover shortages in their areas. This also likely contributed to community spread. This was a particularly big issue between November 2020 and April 2021. Staff who worked in group homes including direct care, habilitation specialists and nurses had an especially high rate of exposure and infection.

**TABLE 4<sup>3</sup>**  
**COVID-19 Infections of OPWDD Staff and Clients Nov. 2020-April 2021**

		<b>Staff</b>	<b>Clients</b>
<b>November 2020</b>	Infections	1,190	572
	Deaths	9	53
<b>April 2021</b>	Infections	3068	1711
	Deaths	9*	105

\*Most up-to-date information provided (December 2020)

**D. Short Staffing Reduces Program Availability at OPWDD**

Over time, the inability of OPWDD to attract and retain staff, especially nurses, has forced the “suspension of services” or closure of many homes and NYS Developmental Disability Service Offices (DDSO) across the state.<sup>4</sup> This dramatic reduction in capacity has, in turn, affected the availability of services to residents with intellectual or developmental disabilities.

**TABLE 5**  
**OPWDD Placement Availability**

<b>Year</b>	<b>Count of Total Programs</b>	<b>Total Capacity of All Programs</b>	<b>Total Census</b>
2012	2,107	12,002	10,498
2013	2,042	11,635	10,146
2014	1,947	10,979	9,641

<sup>3</sup> Correspondence from PEF to OPWDD  
[https://www.pef.org/wp-content/uploads/2020/03/PEF-to-OPWDD-Kastner-Revised-1\\_4\\_21.pdf](https://www.pef.org/wp-content/uploads/2020/03/PEF-to-OPWDD-Kastner-Revised-1_4_21.pdf)  
[https://www.pef.org/wp-content/uploads/2020/03/PEF-to-OPWDD-4\\_22\\_20.pdf](https://www.pef.org/wp-content/uploads/2020/03/PEF-to-OPWDD-4_22_20.pdf)  
<https://www.pef.org/wp-content/uploads/2020/04/Letter-to-OPWDD-Commissioner-Kastner-4-8-20.pdf>  
<https://www.pef.org/media-center/covid-19/>

<sup>4</sup> FOIL Request: #19-0175 furnished by Lydia Brassard, Public Records Officer, 2/26/21

2015	1,838	10,347	9,069
2016	1,759	9,723	8,582
2017	1,687	9,345	8,145
2018	1,646	9,125	7,907
2019	1,593	8,863	7,663

Reviewing the program availability and comparing those program offerings with the total number of requests for placement shows the inadequacy of the current system in meeting the needs of intellectually or developmentally disabled New Yorkers.

However, this also points to the general lack of planning by the state for its own staffing needs. OPWDD has told us they stopped keeping this data since 2019, but program suspensions/closures since then have continued to occur at an alarming rate.

**TABLE 6<sup>5</sup>**  
**Census of Residential Placement Requests at OPWDD**

<b>Year Reported to OPWDD</b>	<b>Total Requests for Placement</b>	<b>Needed ASAP</b>	<b>2 Years</b>	<b>3-5 Years</b>	<b>6 + Years</b>
2012	11,770	4,057	2,318	2,616	2,347
2013	11,966	4,207	2,786	2,660	2,395
2014	11,927	3,928	2,655	2,601	2,741
2015	11,547	3,712	2,579	2,518	2,738
2016	11,104	3,380	2,438	2,441	2,645
2017	11,014	3,768	2,361	2,377	2,559
2018	10,936	3,700	2,294	2,358	2,594

## II. CONCLUSION

As we have seen from the state’s response to the COVID-19 pandemic, the public interest is best served by high-capacity state agencies that render needed services and which are staffed by talented, dedicated and professional public servants hired pursuant to the state’s rigorous civil service system. PEF members possess specialized expertise from

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<sup>5</sup> FOIL Request: #20-02-013 furnished by Lydia Brassard, Public Records Officer, 2/26/21

formal educational requirements, credentialing and/or licensure requirements, required professional development courses and hands-on experience that doesn't really exist in the private sector due to a lack of investment and continued workforce churn. So, the continued staffing crisis at state institutions directly impacts families and I/DD New Yorkers as they are less likely to get the same quality of services from community agencies.

It is clear that the State of New York needs to learn several lessons from this experience. The state can no longer continue to dedicate state and federal resources solely to maintain the operations of the private provider agencies. As we have seen from the pandemic, this strategy has been unsuccessful. New York needs to develop greater capacity to deliver needed public services and to address potential disasters and emergencies in a timely, effective, efficient, and cost-effective manner.

**A. Leveraging State and Federal Resources to “Build Back Better”:**

New York State received significant dedicated and other resources in connection with the COVID-19 pandemic, including the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Consolidated Appropriations Act of 2021 (CAA), and the American Rescue Plan Act of 2021 (ARP). For example, the ARP delivered more than \$13 billion in unfettered operating aid and additional monies for more specific purposes attached to the CARES Act.

In addition to these federal monies, New York enacted various proposals to increase state revenue. It is estimated that the various components of the revenue package passed in the 2021 Legislative Session could generate revenues exceeding \$5 billion over 2020-2021.

Unfortunately, the state has yet to develop a plan to attract and retain staff and to expand residential opportunities at state-operated facilities for those with I/DD.

Most recently, the NYS Department of Health advance a more than \$1 billion grant proposal to enhance the services, programs and staffing for the private provider community operating under the auspices of OMH, OPWDD, OASAS and Aging.

While we believe in a strong private sector safety net, this proposal raises a host of concerns for us as advocates for the New Yorkers we serve.

(1) **Hazard Pay:** This year's enacted state budget provides more than \$46 million for a cost-of-living increase for private sector employees who contract to provide services for OPWDD and other agencies. The draft plan submitted by the state for ARA monies includes a proposal to provide hazard pay for private sector employees. Many private employers and other state and local governments have already provided this important benefit to their frontline heroes. However, there continues to be no supplemental or hazard pay for the state's essential employees who were REQUIRED to render services throughout the pandemic, putting their lives and those of their families at risk; and

(2) **Attracting, Retaining and Rewarding Staff:** Even after the enactment of a state budget which increased state spending by more than \$8 billion year-over-year, the state is still operating with 5,000 fewer full-time employees than at the start of this crisis, including many critical care positions – i.e. nurses, psychologists, etc. This is not acceptable.

Unlike the draft plan submitted by the state on behalf of private sector providers to attract, retain and reward private sector workers, the state has yet to develop a plan



to begin attracting and retaining the direct care and other staff needed to deliver quality services. For example, at OPWDD, facilities continue to be shuttered (aka “suspension of services”) because the state is unwilling to meet increased market demands for nurses and direct care staff and now OMH – the agency charged with managing mental illness among other things -- is attempting to shift its children’s psychiatric unit at Hutchings to SUNY Upstate after having lobbied successfully to cut more than 200 publicly-operated inpatient psychiatric beds across the state.

The pandemic has demonstrated that the state is simply not a competitive employer for professionals like nurses. The state continues to be a revolving door for these professionals, who are in high demand and maintain high professional mobility. The state needs to do more to attract and retain these critical staff. While we are thankful for the geographic pay increase that was effectuated administratively for many of the state agencies, we implore the state Civil Service Department and the Division of the Budget to approve a salary grade increase for Nurse 1 from grade 14 to grade 18 and for Nurse 2 from grade 16 to grade 20, so that OPWDD and other state agencies can compete in hiring and retaining the nurses needed to render care and reduce the need for mandatory overtime and forced redeployments in our facilities. There has not been an increase in the starting grade for nursing titles in 30 years, since August 1981.

(3) **Obligation to Provide Services Regardless of Circumstances:** We are thankful that the state is making application for federal monies to help our colleagues in the private sector. Our members’ frustration comes from the fact that these private providers have no duty or obligation to provide services to anyone and we know that

some private sector providers do not provide services to New Yorkers who are indigent, uninsured, underinsured, undocumented or just plain difficult because it is not operationally viable or desirable.

While we recognize the important role these providers play, the state needs to advance a more comprehensive plan to address this critical service industry both for the private provider community and to shore-up the services that the state renders through its agencies. In our opinion, the pandemic has made clear that the private provider community is not capable of successfully supplanting the need for quality and accessible state services for these vulnerable populations. We are counting on our elected officials to address these concerns fairly so that all New Yorkers can access needed services regardless of their status.

I appreciate your time and the opportunity to address you today. Thank you.