

PEF/SED Statewide Labor/Management Meeting

May 06, 2022

<u>PEF</u>	<u>Division Number (#)</u>	<u>Management</u>
Angelina Rodriguez-Billingsley	Division #376	Anne Fiscarelli
Michael Lenig	Division #349	Benjamin Gifford
Lucinda Trask	Division #372	Wendy DeForge
Karen Potempa	Division #215	William Harris
Robert Davies	Division #230	Na-Kia Walton
Audrey Myers	Division #376	Nikki Gregory
Janice Anderson-Small	Division#376	Dan Morton Bentley
Beth Karalak	Division #194	Tanya Davis
Ved Shrivah	Division #194	James Barron
Sean Dobbin	Division #194	Don Huffman
Sharon V. DeSilva, Esq, PEF Vice President		Michael Paonessa
Patricia Richardson, PEF LM Back-up		
Janice Treanor, PEF Field Rep		

Next Meeting Date

TBD

Reasonable Accommodation (RA)Technology

Labor stated that RA is being approved but the technology purchased is not compatible to SED's operating system. Management said they were not aware of this concern. Ben and Angelina will discuss this matter in greater detail after this meeting

Timeline for response

Labor is receiving many complaints from members stating that RA applications are being responded to in 3-4 weeks, in violation of the proper response date listed on SED's website, which shows a response within 10 days. In addition, members received many denials from management and when they attempt to discuss denials, they are treated quite unprofessionally/quite rudely (hung up calls and unkind verbal interaction). Furthermore, members' disabilities are listed in denial letters, where supervisors and DOO are "cc'd" which gives them the opportunity to view confidential information. PEF is requesting that the entire RA request and response process results in appropriate response time and proper treatment of members. Management stated that they have received many RA requests with the end of temporary telecommuting and permanent telecommuting, and that staffing is limited. Management held that the 10-day response time is correct, and that they will do their best to comply with that time frame. Management also clarified that the 10-day response time begins upon receipt of all required documentation from the employee (completed application, revised medical documentation if necessary, etc.). In addition, management said that supervisors will not receive from the end of the interactive process to determination.

Management discussed that they try to give good customer service and have empathy, and that employee may not be happy with the determination received, but that they will try to be sensitive. Management agreed to address this concern with appropriate staff.

Management said they revised their RA process and assured labor that they will keep information private, to the greatest extent possible, but that information will not be shared with supervisors.

Labor said the new RA forms request disability to be identified, is it required?

Management responded that they need certain information to decide and that forms are designed to reduce back and forth with doctors.

Labor discussed that staff with disabilities were granted telecommuting but were told that full-time/100% telecommuting accommodations will be more restricted as of June 2022 and moving forward... some members are through August. However, the American with Disabilities Act states that the employer must make a reasonable accommodation unless it causes an undue hardship, so why is management limiting reasonable accommodation time frames? Management held that an employee telecommuting 100%, never coming back to the office, has a negative impact on agency operations. And said it is not something they can approve on a long-term basis. Telecommuting can be approved on a limited/temporary basis, but not on a full time continuing basis because it limits the ability to assess an employee's performance, for instance, if someone never comes into the office, there is no basis to develop performance matrix for that individual. So, if there is no comparison for how a person performs in the office versus remotely, it is significantly more difficult for supervisors to develop those matrices.

Labor: 100% is a hardship, are you considering less amounts?

Management-are you talking about 50%, we would not remove it from possibility. Would increase telecommuting be considered, yes.

Labor-SED RA Training, it says that telecommuting would be considered.

Labor: Since management made the determination to return people to work, it seems like there is no interactive process. High risk pregnancy, stage 4 cancer, blood disorders, very concerned with the lack of interactive process and the June deadline. Many calls about it and many calls about the responses from Diversity.

Management: We cannot always approve what the employee requests, but always want to have conversations with respect.

Labor: What are your numbers in terms of Accommodation requests? How many were responded to? How many were approved? Do staff need to put in a telecommuting application also? Members are concerned about the difference between the RA telecommuting and the 30% telecommuting and need clarification. Employees do not want to work for SED because you only offer 30% telecommuting.

Management: a week ago we had 150 requests. All 150 were processed, that is 150 processed in 30 days. Do not have actual number of how many were approved, but believe 90% have been approved, probably modified, but approved. Yes, staff need to fill out work plan for telecommuting. Management is aware that is hard to stay competitive with 30% telecommuting and thanked labor for the feedback.

Labor- approved for another 3 months

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Management- I do not think they were all for telecommuting, routine accommodations etc.

Access-VR Concerns:

Telecommuting

Labor discussed that some telecommuting requests are approved via email, then later disapproved and that management/Office said no Mondays or Fridays and Brooklyn employees can only get 2 days with managers demanding that employees cannot switch days; however, Seniors are getting days switched every week. What are the standards to qualify for equitable telecommuting?

Management responded to send the names of members that received staff approved/disapproved requests and that they will investigate it.

Labor stated that-Office was told no telecommuting on Mondays and Fridays. Management/Jim stated that there is a directive to allow telecommuting days on all days, which was discussed at nauseum with management teams. Jim will discuss this concern with supervisor and will advised them to immediately stop restricting telecommuting days, especially Mondays and Fridays, because there should be no black out days! The grid is out there and can be looked at every 2 weeks.

The following discussion occurred between management and labor: Labor: -is there a standard every other Monday and every Friday.

Management: you cannot have every Monday or every Friday. When you have 3 days, it is an odd number.

Labor: don't they identify the days they want?

Management: I do not think so. Based on number of counselors, number of vacancies, I give management discretion.

Labor-if someone wants every Monday, you call it extending your weekend.

Management: it is an equity issues, no one is waiting in line for Tuesdays.

Labor: are they not supposed to give a reason for operational need? Do they have to explain what operational need is?

Management: sure, it could be different for each office. It should be more specific than operational need.

Labor: who has ultimate authority to approve leave requests?

Management: I am not signing off on 700 telecommuting requests? Based on each office. It cannot be every Monday and every Friday telecommuting.

Labor: Folks keep referring to telecommuting as days off, let us be careful to not say members are off, everyone telecommuting is working very hard.

Labor: Supervisors are not signing off, they are sending it to the manager for approval, power is taken away from Seniors.

Management: Comes down to certain offices. I do not have a problem with it. If the DM wants to override the approval, I do not have a problem with it.

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Labor: we would prefer if the Senior could approve it and then if DM wants to override, that is fine, but we would like it in writing.

Management-Ok

Labor: telecommuters must have a set and consistent schedule.

Management: I would not agree with you.

Labor: Bronx and Brooklyn, get 1 or 2 days, put in for 3 days and denied and told they can only get 2 days.

Management: They should get an explanation, each office is different, it is all about staffing and compliance, which is different in offices.

Labor: reasonable to get an explanation of operational needs. Members want to know what operational needs specifically are. Can we get it in writing?

Management: varies, dictated by different offices, will tell DMs to be more specific.

Labor: we asked for a committee to review appeals, an employee put in an application and got a denial from the DOO. No one to appeal to if the DOO does the denying.

Management: do not see reasons we would override a supervisor, no one is in a better position to determine operational need other than the supervisor. We train supervisors to explain decision making to employees.

Labor: The question from member is, if there is a policy for appeals, why wasn't that followed? In ACCES, the DOO is the one to approve.

Management: we can have staff ask the DOO to reconsider. They will be compelled to follow the guidance of the Supervisor. Can communicate to DOO that members would reach out to them. There are very limited circumstances that management will change the determination. Same as vacation, do they have accruals, and can we allow them to take the time off? There will not be a lot of room to overrule the supervisor's determination. Management will have a conversation with the directors of operation about what the expectation is when something comes in front of them for reconsideration, and if an employee is denied, then they must do a better job of communicating to staff of their opportunity to appeal.

Labor- DOO is making the decision on the application and then the member would need to appeal to the DOO. The process of appeal must be communicated. We would like the supervisor to let the employee know there is an appeal process and what that is. Management advised that the process is to then appeal to the Deputy Commissioner of the specific program area and outline the process.

Labor: -You must be 90% in compliance on 3 lists, or you are denied telecommuting. It is unfair for the offices that are short staffed because half of the employees have resigned or retired, to be treated as a fully staffed office and be held to the same 90% compliance standard, it is unfair! Brooklyn is down 17 staff, the Bronx is down 15 staff, Manhattan is down 7 and Mid-Hudson is down 4: that is half the staffing levels. When staff resign, their caseloads are given to remaining staff, which can lead to "out of compliance" system... when they are handed off. Employees are saying that they comply because they are all working overtime, nights, and weekends to comply. You can check the CASE and CAMS to see the times employees are working on cases. We ask that you look at the retention of staff.

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Management: It is true in part. You do not have to be constantly 90% in compliance. If you are normally 90% in compliance and you dip below for a month, we look at these numbers every month, that is not someone I would expect their telecommuting to be taken away, however, if we have been working with you and you are not able to get your numbers up, then they are likely to have to be in the office every day. We are not aware of a rash of staff quitting or having difficulty filling opened positions; there is only one office out of 15 that is not in compliance. Management/Jim said that labor should provide the names and times staff are working overtime. Unfortunately, there are not many offices that are not hurting for VRCs, that part is true. When I look at all the offices, there are not many people who are not in compliance, many of these folks haven't been in compliance well beyond the fact that we are down staff. I will speak to my staff to be mindful of the fact they are down staff when looking at applications for telecommuting.

Syracuse Office Parking

Labor strongly suggested that management should investigate the parking situation in Syracuse, which will affect not only ACCES-VR, but SED and other State offices. I81 has been approved. I81 and 690 are elevated highways which will be dropped to the ground level. The State office building in Syracuse has 5 parking lots, 4 of them are underneath I81 and 690, and when they are dropped, we will no longer have parking. Labor has not received any information about these parking concerns. Building manager has no idea about the type of work we are doing. We are field based counselors, and we will be bussed in. Hoping management will take a proactive approach to discussing and resolving these issues, and not just wait and take a reactive response.

Management stated that the Office of Employee Relations (previously GOER) will be having discussions with all the offices concerned. The matter is being discussed internally.

Ethics: SED Employees Serving on School Boards

Labor discussed that members are not allowed to serve on school boards. The language is not clear and is condescending, can members serve on school boards or are they not allowed to? We have some members serving on school boards and the Chief Ethics Officer told some to resign immediately, or they will be fired from SED. Is it something that SED was aware before, or can SED do something about it? It is not fair that members cannot serve their communities. SED Counsel, Dan Morton Bentley, responded and advised that the Joint Commission on Public Ethics had weighed in on this issue, and that having NYSED employees serve on school boards creates a conflict given NYSED's role as a regulatory/oversight agency over schools. NYSED is obligated to adhere to the determination of JCOPE..... Dan indicated that those currently serving would be allowed to finish their term and not run again.

Labor requested a copy of JCOPE's decision on this matter. Management agreed to send a copy of the letter.

Office Moves

Labor stated that the move of OPD from one office to 55 Hanson Place Brooklyn office was done without notice to employees that 55 Hanson had construction going on. OPD had to move back to their office with a temporary lease. Then when it was time to move again, they were given 24-hour notice to move and asked to start at 7:00 a.m. when start times are not until 8. In addition, who oversees a move? It was the members who had to get into early and work late, without compensation. Is it Mary Weaver's team?

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Management explained that OPD sublet from DOL and that OGS handles all our leases. The landlord wanted the space back and gave 30 days' notice, but then DOL moved into SED space and OPD could have moved into 55 Hanson place anytime since November. they waited. The window project was not done. Everyone's hands were tied. Mary works for me; OGS was trying to get us to pay for the move. We had agreed that they were paying for it, there was a lot of negotiation. Generally, when an office is going to move it is the DOO who organizes the move. The program area itself must make the arrangements.

Labor stated that Management decided not to make the move due to health and safety concern, however, labor is concerned with the lack of proper notice Short notice is the issue when you are given only 48 hours to move, and IT was given only 3 days' notice.

Management responded that they talked OP all the time about moving, and they were upset over everything. This whole OP Hanson Place thing was not nice.

Labor raised concerns about OPD Buffalo move, because there is black mold in one of the rooms. Members were told not to get involved; OGS handles it. There was an April 26, 2022, email that discussed a walk through, but there was no date listed. Employees are supposed to be out of our location at the end of May. There is a lack of communication. We were told to pack our stuff and wait for the move. In addition, there is an assessment form for the walk-through, and we are requesting that the black mold is removed prior to anyone being relocated to that floor.

Management responded that there is a lot of emails going back and forth and that OGS is involved, and they will seek information about the black mold. When anyone says black mold, it is usually a problem of air intake and its usually dust. We will see what needs to happen to remedy the situation.

Labor Management MOU

Managers not attending meetings

Management stated that there were some changes that significantly impacted management's time commitment regarding the amount of time needed to attend labor-management meetings, and that there need to be compromise; so, a counter proposal will be sent to labor very soon. We are working toward joint L/M training with guidance from OER, who has provided a form to facilitate the training.

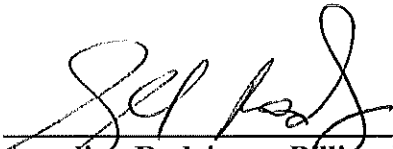
Labor asked if management was concerned about the number of times we meet. Our contract language (Article 24) about Local L/M is very clear and we should be discussing the proper establishment of Local labor-management and statewide committees now. It would be great if labor can receive management's tracked changes to the MOA quite soon. There were local meetings and a statewide ACCES-VR local meeting and that is what members are looking for.

Management responded that they were looking at 2 times a year to look at 2 office areas and that labor was interested in 2 times a year for each office area. What are we talking about a local meeting in NYC or Statewide? If local meetings are being scheduled, Jim stated that if labor provide dates, he will attend. Sometimes we give answers, multiple times, and maybe the answers are not what you are looking for, but we give answers. We have a labor relation for a reason, they are here to help resolve issues.


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**MINUTES FROM THE May 06, 2022
PEF LABOR/MANAGEMENT MEETING**

The parties have reviewed the attached recorded minutes from the above meeting of the PEF Agency Level Labor/Management Committee and by the signatures affixed below, the minutes are hereby accepted.

 9/14/2022

Angelina Rodriguez-Billingsley Date
PEF L/M Chair

 9/16/2022

Benjamin Gifford Date
Management Chair