**PEF/SED Statewide Labor Management Committee Meeting Minutes**

**December 9, 2022**

**Attendance:**

**Labor(PEF)** **Division #** **Management**

Angelina Rodriguez-Billingsley 376 Ben Gifford

Beth Karalak 194 Anne Fiscarelli

Robert Davies 230 Antonia Guiliano

Audrey Myers 376 Christie Nunziato

Carlos Garcia 194 Elatisha Kirnon

Janice Anderson Small 376 Jen Gadomski

Karen Potempa 215 Marshall Savitt

Meghan Keegan PEF Field Rep Na-kia Walton

Michael Lenig 349 Nikki Gregory

Sean Dobbins 194 Sarah Giacomini

Ved Shravah 194 Tammy Thayer

Vivian Falto 349 Tom Walters

William Harris

Lauren Newell

James Barron

**Topics:**

**PEF Masks:**

* Labor: A Manager was seen taking the PEF telecommuting masks out of the office, said manager has reimbursed PEF and the matter has been successfully resolved.

**EOL-Procedures and Forms:**

* Labor: Executive LM negotiated an EOL form. The EOL form is used for when PEF reimburses SED for union leave such as, SWLM, SWHS, and other organizational leave like when PEF calls in leadership to meet. SED receives a list of employees for EOR leave.
* Management: We will reach out to OER to see what the form is. Management wants a form for record-keeping, Managers need to know so that they can approve it based on operational needs. If there is a simplified form, we could possibly look at it.
* Labor: Questions and the number of details requested is infringing on engaging in union activity. It’s appropriate for charging to LATs, which category to use, Supervisor, being able to verify with management, but some stuff is infringing on doing union activities. PEF believes the SED form is requesting too much information, getting into blocking engaging union activities.
* Management: When you hear of that happening, bring it to our attention.

**PEF’s Ask**: revisit the long form and for management and HR to have more training on EOL with supervisors.

**Memorandum of Agreement/Understanding (MOA MOU):**

* Labor: Revisit the memorandum of understanding, a document that has been under review for 10 years and has not been signed. We would like to take the time to review the MOU within the next 2 months and meet with management to come to an agreement before the May LMC meeting.
* Management: Absolutely. Appreciate your feedback. We’ve come a long way and have developed a good working relationship.

**Telecommuting:**

* Labor: In the Office of the Museum, the person who is approving/denying telecommuting is the person the staff appeal to. SED and PEF made an agreement on this issue, and it appears that this is a different agreement.
* Labor: There is a disparity in the implementation of the agreement in ACCES-VR. If a Holiday is on Monday, and an employee has a previously scheduled telecommuting day on Tuesday, the employee will lose the telecommuting day or be asked to charge time. Telecommuting is being used as a prize…if in compliance; staff gets telecommuting. This was put in writing previously. We are using ACCES-VR, but it is across the board, other program offices are having similar issues.
* Management: Management’s position has been 30% telecommuting, supervisors see it as you need to be in the office 70% of the time. It will be up to the employee as to whether they want another telecommuting day and if the supervisor agrees.
* Management: ACCES-VR is unique, it’s open to the public with members coming in and out. Telecommuting needs to be adjusted to ensure office coverage.
* Labor: The Challenge is the presumption. What does it mean that we cannot telecommute on certain days? ACCES-VR is open to the public, but staff have many options to meet with individuals, they can meet in person, via Zoom, or over the phone based on the individual's choice. We have already brought this to you (management) and have not received an answer. When can you give us an answer?
* Management: We rely on specific cases, and fact patterns are different. Look for common issues and common problems. It’s hard to work with broad generalizations. We need the specifics to address them.
* Management: The issue at the Museum, we will look into it.
* Management: The issue of not telecommuting after a Holiday, we will look into and gather information.
* **PEF’s Ask:** Request management evaluate how it is being done. Do not presume or assume, look at how it is being implemented. Let the person know what the needs are as to why they cannot telecommute. What can HR do to assure telecommuting is being done equitably and fairly?

**Reasonable Accommodations:**

* Labor: Note for the record. Our members were broadly granted 100% remote work accommodations over the last several years. PEF is concerned that SED set a precedent to allow this, yet more recently has been denying accommodations for remote work that were previously granted and/or that are similar in nature to accommodations that were previously granted. PEF is also concerned about the large number of members who have been referred to employee health services and/or placed on CSL Section 72 leave after requesting reasonable accommodations.
* Management: During the pandemic, staff was 100% remote, opened gradually, and now we are open for business. We view office presence as essential. Accommodations we have supported in the past, we may not be able to support now. As of now, the Division of Human Rights has upheld our position in these matters. Alternative accommodations, staff will feel better if they come in with an open mind and are open to discussions about alternatives and accommodations with Elatisha.

**OT/Flex Time:**

* Labor: ACCES VR- members provided the number of hours they were working over their regular shift hours in order to maintain compliance.
* Management: As previously discussed, staff have been directed they should not be working overtime. We do not have any way to determine if staff are working overtime when they are telecommuting simply because staff were in CAMS after their regularly scheduled working hours does not indicate they were working overtime. If you believe there were offices where they were receiving a directive other than they shouldn’t be working overtime let me know and I will follow up. - James Barron.
* Labor: Flex time during busy time has not been in practice. It is a resource we have available to us. It should be used on a limited basis.
* Management – Overtime is not prohibited and should be recorded in LATS
* Labor – We were told we can’t do overtime.
* Labor: It is illegal for employees to submit timecards that are not accurate reflections of the time they worked. That is a felony in NYS. Supervisors cannot direct people to only charge their scheduled hours e.g. 8:30-4:30 and then tell them to work before, after, or over the weekend to complete work. That includes non-eligible overtime staff. Staff hours must reflect when staff actually worked. There are significant and substantial issues with regards to Workman’s Compensation coverage and the ability for the State to know who is in a building in case of an emergency if there isn’t an accurate reflection of the hours people are working. We would always advise members if they are not being approved for overtime, that they have to obtain approval for any overtime worked, and if not, they should stick to their work hours. Staff should have constant communication with their supervisors about what they accomplish during that time and ask for feedback on what they should prioritize if they aren’t able to keep up with the workload that has been assigned to them.
* We are getting questions from all over the agency about supervisors asking members to work in secret, and supervisors who are keeping separate records for flex time saying the members will be able to take the time once we are over this hump. Then they are taking a day off or a half of a day off and it says they are in the building when they are not, which is a huge issue. There is significant issue with supervisors violating Labor Laws on this issue and they are asking our members to engage in activity that is criminal. That cannot continue to happen. Management – there was a supervisor training that inform supervisors that it has to be entered in LATS.

**PEF’s Ask**:

* Labor has heard from management that caseloads should be 200 or over. Please provide Labor with what a caseload should be according to RSA.
* Labor requests a letter be sent to all SED staff from HR stating that unless approved by your supervisor, staff are not allowed to work overtime to catch up on their workload.  i.e coming in early, staying late and not working on the weekends to keep in compliance.
* Labor requests an e-mail be sent to the employee to use flex time to safeguard PEF members in case there is some form of accident or injury, and this e-mail serve as official documentation for said employee to be using flex time.
* Labor requests Staff telecommuting days not be tied to work performance when the overtime cease & for staff not to be harassed or discipline.
* Labor requests management provide reasons for the inconsistence in the guideline on how the AWARE training is being done across ACCES-VR offices.  Example: One office has cancelled all telecommunication days & staff are required to cancel all medical appointments for the month of training.   Labor would like to ensure that after the training, our members will be able to resume their normal operation of telecommunication, AWS/VRWS & medical appointments.

**Toxic Work Environment-Lack of Communication, Discrepancy in decision making:**

* Labor: The Office of Museum-managers have been offending members, and members are afraid to bring it up. ACCES-VR Managers in Brooklyn, Poughkeepsie, Malone, making comments, such as “this is a directive” without an explanation. Also, members put in time off requests 2 months in advance and are told they have to wait to determine office needs.
* Labor: Hiring-inappropriate use of hiring. Managers are being hired provisionally when there are qualified individuals who have taken the test. This makes the Hiring process looks like it’s not being done fairly across the board.
* Management: 51 provisional appointments.
  + 29 internal 22 from outside the agency.
  + Disadvantage of when tests are offered, lack of exams. We are not able to make provisional appointments, we could only do that if the list has been broken. All provisional appointments that have been made have been done with Civil Service approval.

**PEF’s Ask:** Share the titles of where staff are sitting in Provisionals so we can bring that up to Civil Service and any testing schedule you may be aware of.

* Labor: Long Term Special Payroll Temps, staff on for 20 years.
* Management: A package was sent forward, approved by Civil Service, and stuck at DOB. There are new players and maybe it could be looked at again.
* Management: Exam schedule-reach out to Civil Service.
* Management: Sexual harassment-have staff fill out a form online, harassment or unprofessional behavior, it goes directly to HR, not to supervisory levels. We want to address specific issues directly.
* Labor: CEC women and candidates of color are being passed over for white male candidates. This needs to have some oversight.
* Labor: CEC employees are being harassed and feel there is some form of discrimination.
* Management: Any sexual harassment or discrimination is unacceptable. Management will meet members anywhere outside of work so someone can report it directly. We must have staff file reports so we can investigate it and we will.
* Labor: We are having a lack of communication from Management regarding timely vacation requests, what can be done to help?
* Management: Supervisors need proper time when looking into granting time; without specifics it’s hard to answer, however we welcome any information you have, and we will look into it.

**PEF’s Ask:** Supervisors/Managers/Regionals who need in-person training using Article 15 money. Can we have this training and are you ok with it?

* Management: Provide names and narratives along with reasons why specific supervisors need training.

**PEF’s Ask:** Provide documentation that SED will not be funded from the federal government if our compliance goes down.

**PEF’s Ask:** Can SED start the process of hiring for the Director of the Museum?

* Labor: Exit interviews and letters submitted on toxic work environment? What will HR do when they see these statements?
* Management: We do review exit interviews and letters submitted.

**Diversity, Equity Inclusion (DEI), New Employee Orientation:**

* Labor: Is there a department policy for DEI?
* Management: No, we are coming up with a plan, not a policy. Recruitment and hiring will include processes for hiring diverse staff.

**PEF’s Ask:** What is the demographic profile of staff by unit and program area PEF, CSEA and M/C?

* Labor: Process for in person orientation. We are legally entitled to meet with new members for orientation. We would like this to go back to in-person.
* Management: Within 3 days they need to review documentation and meet with HR with any questions.
* Management: We have no problem with Labor meeting with members.

**Evaluations/Ask for Betty Rosa to be in our next meeting:**

* Training for both Labor and Management is occurring. Labor would appreciate having the Commissioner come to our next meeting.

**Minutes from the December 9, 2022**

**Statewide SED 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.

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Angelina Rodriguez-Billingsley Date Benjamin Gifford Date

PEF L/M Chairperson Management Chairperson