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July 26, 2006

Larry Flanagan, Jr., President  
NYSCOPBA  
102 Hackett Boulevard  
Albany, NY 12210

**VIA TELEFAX AND MAIL**

**Re: Law Enforcement Decertification**

Dear President Flanagan:

The PERB Administrative Law Judge, by decision dated July 24, 2006, granted the fragmentation of the Law Enforcement titles from the Security Services Unit represented by NYSCOPBA. The decision was based solely on the fact that the Law Enforcement titles are not eligible for binding arbitration.

The ALJ rejected the arguments made by both NYSCOPBA and the State that the PERB Board's decisions made different dispute resolution procedures only a factor in fragmentation cases. Citing *County of Rockland*, 35 PERB ¶3004 (2002), the ALJ determined that the Board had decided that whatever the type of case in which the issue of different dispute resolution procedures arises, the combination in a single unit of those eligible for interest arbitration with those for whom interest arbitration is not available is "...definitively inappropriate...."

This decision does not address what unit the Law Enforcement titles should be placed in after fragmentation. Unit placement will be addressed by the ALJ in the future.

We will, as you have directed, file exceptions to the ALJ's decision on behalf of NYSCOPBA. Therefore, until the Board issues a decision on the exceptions, nothing changes.

The Board could refuse to consider exceptions on this issue until the ALJ makes a determination on the appropriate unit for these titles. This would send the case back to the ALJ for further processing (including a possible hearing) to find the right unit.

If the Board does consider the exceptions and reverses the ALJ, the case goes back for a hearing on whether the Law Enforcement titles have been properly represented by NYSCOPBA.

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If the Board upholds the ALJ's decision, the case still goes back to the ALJ for a decision on the appropriate unit. Until that decision is made, and any exceptions to the decision ruled on by the Board, the law enforcement titles will remain in the Security Services Unit.

We will, of course, keep you advised of further developments. If you have any questions concerning the decision, please give me a call.

Very truly yours,

Nancy L. Burritt  
NLB/dac  
Enclosure

cc: NYSCOPBA Executive Board

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