



# New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209  
(518) 427-1551 [www.nyscopba.org](http://www.nyscopba.org) [nyscopba@nyscopba.org](mailto:nyscopba@nyscopba.org)



April 2, 2008

Dear Member:

NYSCOPBA has declared Impasse in contract negotiations with the State by filing a Declaration of Impasse with the Public Employment Relations Board (PERB). To explain our reason for doing so and to outline the process going forward, we prepared the following questions and answers:

**1. Why did NYSCOPBA declare Impasse?**

Although the parties have negotiated in good faith, it became apparent that the State was not going to make an economic offer that we could accept. The negotiating team unanimously concluded that it was time to move the process forward.

**2. What happens at Impasse?**

PERB will assign a mediator to meet with the parties and assist them in trying to reach an agreement. Participation in mediation is mandatory.

**3. What happens if mediation is unsuccessful?**

If mediation doesn't produce an agreement, either party may petition PERB for binding arbitration. PERB will then establish a public arbitration panel to hear and determine the dispute. Under existing law, the parties can seek arbitration only on issues directly related to compensation, such as salary, stipends, location pay and insurance benefits.

**4. Why go to Binding Arbitration?**

NYSCOPBA fought for Binding Arbitration, as the State Troopers had done before us, because we wanted our compensation package to fairly reflect our duties and responsibilities as law enforcement professionals. We didn't want to be tied to the old system of pattern bargaining. Our first arbitration award (2003-2007) did what we had hoped- it recognized our unique position within the law enforcement community and compared us, not to other state employees, but to state correction officers in surrounding states. We broke away from pattern bargaining. If we again proceed to Binding Arbitration, our goal will be the same.

Although there are no guarantees that come with Binding Arbitration, it provides us with our best opportunity to go beyond the negotiations pattern set by other state employee unions and to achieve a compensation package geared to us as law enforcement professionals.

**5. Does Binding Arbitration apply to all members of the bargaining unit?**

**No.** Under the current law, binding arbitration applies to our Corrections members but not to those in Law Enforcement titles.

**6. How is the arbitration panel selected?**

The arbitration panel consists of three members: one appointed by the union, one by the employee and one “public member” appointed jointly by the parties. If the parties cannot agree on the public member, the selection is made from among a special list of arbitrators maintained by PERB. PERB provides the parties with the names of nine arbitrators from that list and the State and NYSCOPBA take turns striking off names until only one remains. That person becomes the public member and serves as chairman of the panel.

**7. What happens at the arbitration hearings?**

The arbitration panel is empowered to make a “just and reasonable determination” of the matters in dispute and it conducts a hearing for that purpose. The public member acts, as would a judge, ruling on issues of evidence and procedure. The parties present witnesses and documents in support of their positions. The panel must compare salaries and working conditions of correction officers to those of other employees performing similar services and must also consider the unique aspects of the job, including its hazards and physical qualifications. The panel must also consider the interests and welfare of the public and the financial ability of the State to pay.

All issues before the panel are decided by majority vote. The determination of the panel, issued in the form of an “award”, is final and binding on the parties.

**8. What will happen to Law Enforcement while the Binding Arbitration case is proceeding?**

We would have the right to go to fact-finding on behalf of our Law Enforcement members. Whether and when we actually do so will depend upon what happens in mediation, the nature of the compensation offer the State has on the table, and various other factors that may come into play. It’s simply too early to decide that right now.

**9. How long will Binding Arbitration take?**


There are many variables, making it difficult to provide a specific timetable. We must first participate in mediation in good faith. Once we file for binding arbitration, we must select an arbitration panel. When the hearings do begin, they can be expected to extend over a period of several months. We will do everything in our power to move the process along swiftly.

Your patience and support while we move ahead are appreciated. We will provide you with regular updates throughout the negotiations process.

Sincerely,



Larry Flanagan, Jr.  
President



Diane Davis  
Recording Secretary

**NYSCOPBA Negotiating Team**



**Negotiation Team From Left To Right**

**Back Row:** Bill Sheehan, Larry Flanagan, Jr., Diane Davis, Natalie Carraway

**Middle Row:** Art Jolley, Wilson Chapman, Tom Sawyer, Karen Terry, Chris Hickey, Steve McKeel

**Front Row:** Dave Viddivo, Paul Murray, Nick Kogut, Glen Masner, Courtney Nixon, Peter Shanagher