



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

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FYI – Transfers

Sergeants will not be allowed to transfer off of a reassignment list while they are out on Workers' Compensation Leave unless they can physically report to their new assignment (light duty). This is part of the Uniformed Employee Reassignment Program.

I have requested that this item be included in Statewide L/M talks and that it be amended to allow for transfers while on W/C leave.

The entire policy is enclosed for your review.

Sergeants will not be allowed to transfer while facing pending disciplinary charges, which call for dismissal or while on suspension. Legal opinion enclosed.

DEPARTMENT OF CORRECTIONAL SERVICES

UNIFORMED EMPLOYEE REASSIGNMENT PROGRAM

A. Basic Provisions

1. In filling Correction Officer, Sergeant, and Lieutenant vacancies, first preference is always given to employees on the reassignment list for a specific facility.
2. An employee in the title of Correction Officer, Sergeant, or Lieutenant may, at any time, submit a request for reassignment from his/her present facility to any other Department facility where their title exists.
3. A security employee may submit simultaneous requests for reassignment to one or more different facilities up to a total of eight (8) facility reassignments. A reassignment request form will be rejected if it contains more than eight facilities. Each employee may add new reassignment requests or change preferences on those pending up to a maximum of 8 facilities. **HOWEVER, SHOULD A SECURITY EMPLOYEE BE ISSUED ORDERS TO REPORT TO A NEW FACILITY BASED ON THEIR CHOICES ON FILE, A NEW REQUEST MAY NOT BE SUBMITTED UNTIL HE/SHE HAS REPORTED TO THEIR NEXT FACILITY ASSIGNMENT.**
4. Reassignment requests will be activated in order of the date received in the Central Office Personnel Bureau through the last business day of April and the last business day of October of each year. All reassignment requests pending as of those days will be placed on a revised reassignment list in order of employee seniority in title, and these revised lists will go into effect on May 1 and November 1 of each respective year. New requests received on or after May 1 and November 1 are added, by date received, at the bottom of the revised list.
5. A security employee may at any time withdraw any or all of the active reassignment requests he/she has on file. A reassignment request form with only the WITHDRAW ALL REQUESTS box marked must be submitted to take their name off of all reassignment lists. **HOWEVER, A WITHDRAWAL REQUEST WILL NOT BE HONORED AFTER THE REASSIGNMENT ORDERS HAVE BEEN ISSUED, THE EMPLOYEE WILL BE REASSIGNED, AND A REJECTION NOTICE WILL BE ISSUED TO THE EMPLOYEE ON ANY SUCH REQUEST FORM.**
6. When an employee with reassignment requests pending for more than one facility is reassigned on a PERMANENT basis to any one of those facilities, his/her name is immediately removed from the reassignment lists for all of the lower preference facilities they had chosen. However, their name remains active on the lists for any facilities that are a higher preference than the facility to which the individual was reassigned.

7. When an employee with reassignment requests pending for more than one facility is reassigned on a TEMPORARY basis to any one of the facilities they have designated that they are willing to accept TEMPORARY reassignment to, their name will remain on the reassignment lists for all the facilities for a PERMANENT reassignment. HOWEVER, THEY WILL NOT RECEIVE A TEMPORARY REASSIGNMENT TO A LOWER PREFERENCE THAN THE ONE THEY HAVE BEEN REASSIGNED TO. Individuals may receive consecutive temporary reassignments to higher preferences.
8. Once an individual is reassigned, he/she cannot be reassigned again for a period of 28 days from the payroll date of the reassignment, not the report date. However, during the 28-day period, individuals will maintain the reassignment list rankings they had prior to the hold period. IF THEIR NAME IS REACHED FOR PERMANENT REASSIGNMENT TO THE FACILITY THEY ARE REASSIGNED TO ON A TEMPORARY BASIS DURING THIS 28 DAY PERIOD, THEY WILL BE MADE PERMANENT AT THEIR CURRENT FACILITY.
9. Each request for reassignment or withdrawal must be submitted through the Superintendent of the employee's facility. Only requests received by the Central Office Personnel Bureau which bear the signature of the employee's Superintendent or his/her designated facility representative will be honored. Employees may send such signed reassignment requests directly to the Central Office Personnel Bureau via Mail, Fax or hand delivery.
10. Temporarily promoted security supervisors may submit a reassignment request form (Form 1216 TEMP) to be placed on the Supervisors' Temporary Reassignment Lists for their title.
 - a. When filling a temporary security supervisor vacancy, the PERMANENT REASSIGNMENT LIST is given preference. If no permanent list candidate has indicated they would accept temporary reassignment to a particular facility, the top person on the TEMPORARY REASSIGNMENT LIST is then considered for reassignment.
 - b. The score of the top eligible candidate on the promotional eligible list is then compared with that of the top candidate on the TEMPORARY REASSIGNMENT LIST. Should the score of the eligible list candidate be equal to or lower than that of the top TEMPORARY REASSIGNMENT LIST candidate, the supervisor serving in title then receives the reassignment. Should the score of the promotional list candidate be higher, they are offered a promotion, rather than a reassignment being processed from the TEMPORARY REASSIGNMENT LIST.

B. SPECIAL PROVISIONS AND EXCEPTIONS

1. Pending disciplinary charges, which call for the penalty of dismissal from service, will bar reassignment until the charges are disposed of.
2. A Sergeant or Lieutenant on inactive duty status (i.e., Sick Leave, Workers' Comp. Leave) whose name is reached on the reassignment list will be passed over. However, he will retain his rank on the reassignment list and will immediately become eligible for reassignment upon his return to active duty.
3. A Correction Officer who is on inactive duty status (i.e., Sick Leave, etc.) will be passed over for TEMPORARY reassignment, but not for PERMANENT reassignment.
4. An employee retaining permanent status in a Correction Officer, Sergeant or Lieutenant position during probationary or temporary service in any other position in our Department is eligible to request reassignment of his permanent 'hold' status to any available permanent vacancy. In determining rank on the reassignment list for the permanent title, time-in-title seniority will be computed as if he/she were still serving in that title.
5. If any employee's service in a security title was interrupted by service in any other title, in the Agency, previous service in the title shall be credited toward seniority for the purpose of ranking on the reassignment lists. The interim time served in the other title is also counted if it did not exceed one year, but not otherwise.
6. The employee's time eligibility for job bidding at the new facility will be measured from the date they report to duty at the facility.

C. SUPERVISORY REASSIGNMENTS TO PERMANENT VACANCIES

1. Preference in filling permanent SERGEANT and LIEUTENANT vacancies is given to the following groups of employees in the order shown:

Group I All employees serving in title as 4.11 (Contingent Permanent) appointees at the facility where the permanent vacancy occurs, all individuals having 4.11 holds in title at the facility where the permanent vacancy occurs, along with any employee serving in a higher title whose request to transfer his permanent hold is at the top of the reassignment list for that facility. Employees within this group will be ranked for reassignment eligibility in time-in-title seniority order.

Group II Other employees on the appropriate supervisory reassignment list in normal order of rank on the list, with no distinction between permanent and 4.11 (Contingent Permanent) employees.

Group III Employees on the appropriate promotion list.

D. SUPERVISORY REASSIGNMENTS TO ENCUMBERED VACANCIES AND TEMPORARY ITEMS

1. Reassignments to encumbered vacancies are made in rank order from the reassignment list, with no distinction between permanent and contingent permanent (4.11) employees. A permanent employee reassigned into an encumbered vacancy is considered to be reassigned on a 4.11 basis and retains a 'hold' item at the last facility at which he had permanent status. A contingent permanent employee reassigned into an encumbered vacancy is reassigned with contingent permanent status, and retains no 'hold' item elsewhere in the same title. In either case, the reassigned employee's name is removed from the reassignment list.
2. Preference in filling TEMPORARY Sergeant and Lieutenant vacancies is given to employees on the permanent reassignment list who indicated they are willing to accept temporary reassignment. An employee on the reassignment list serving provisionally or temporarily in another title and seeking reassignment of his 'hold' item is skipped over, as a temporary vacancy must be filled by an employee who can physically report.
 - a. In reassignments to temporary vacancies:
 1. Contingent permanent employees are reassigned only temporarily, the same as permanent employees, and retain 4.11 'hold' items at their previous facilities.
 2. Each temporarily reassigned employee, whether permanent or 4.11, remains active on any other reassignment lists he was on previously.
3. If there are no permanent or 4.11 supervisors on a PERMANENT reassignment list for a facility who have indicated a willingness to accept TEMPORARY REASSIGNMENT, then temporarily promoted security supervisors may be considered from the TEMPORARY REASSIGNMENT LIST.
 - a. Temporarily promoted security supervisors may submit a temporary reassignment request form (Form 1216 TEMP) to be placed on the TEMPORARY REASSIGNMENT LIST.

- b. The score of the top eligible candidate on the promotion list is then compared with that of the top temporary reassignment candidate on the TEMPORARY REASSIGNMENT LIST. Should the score of the eligible list candidate be equal to or lower than the top Temporary Reassignment List candidate, the supervisor serving in title then receives the reassignment. Should the score of the promotional candidate be higher, a temporary promotion is offered rather than a reassignment from the TEMPORARY REASSIGNMENT LIST.

E. BREAKING SENIORITY TIES

1. SECURITY SUPERVISORS

- a. Seniority ties on reassignment lists are broken as follows:

1. EXAM SCORE.

2. Ties among individuals who have the same seniority and same exam score are broken according to their rank on the promotion exam list. Scoring ties on promotion exam lists are broken in accordance with contract seniority in the qualifying title. Ties among individuals also having the same qualifying contract seniority are broken utilizing a computerized random scramble number, with the lower scramble number resulting in the higher list rank. By utilizing these tiebreakers, each candidate on the list is assigned a specific list rank.

2. CORRECTION OFFICERS

- a. Seniority ties on reassignment lists are broken in the following order:

1. EXAM SCORE. If a reinstatement occurred, the original exam score when the person was appointed to the title would be used even if the reinstatement occurs after a break in service of more than one year.
2. NAME SCRAMBLE. The first three letters of an employee's last name are reversed and assigned numbers from a chart. The lower 3-digit number is more senior.
3. SOCIAL SECURITY NUMBER. The lower Social Security number is more senior. All nine numbers may be utilized, if necessary.

b. By Agreement with NYSCOPBA, Correction Officers appointed in 1990 through the CONTINUOUS RECRUITMENT EXAM process shall be placed in a group, by Training Academy final grade score order, behind Correction Officers appointed on the same date from a competitive CIVIL SERVICE eligible list. All tiebreakers listed in A above shall continue to apply on reassignment lists after such class ranking.

**HINMAN
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- NOD (non termination) you can transfer.
- NOD (Termination) or suspension you cannot transfer.

MEMORANDUM

TO: All Chief Sector Stewards

FROM: Hinman Straub P.C.

RE: Article 8 Grievance Settlement/Reassignment Rights while Disciplinary Charges are Pending.

DATE: October 23, 2000

This is to advise you of a recent arbitration settlement between NYSCOPBA, the Governor's Office of Employee Relations (GOER) and the Department of Correctional Services (DOCS) which enhances the Article 8 disciplinary protections for members who are facing disciplinary charges which do not seek termination from employment. The settlement requires DOCS to honor inter-facility reassignment (transfer) requests of members even while non-termination notices of discipline are pending against them.

Since at least the late 1970's, DOCS has taken the position that it has the right to deny the reassignment of employees against where notices of discipline are pending. Such reassignments are normally made strictly by seniority and the order of the employee's request. DOCS' refusal to let employees facing discipline reassign often put additional pressure on these employees to settle cases, particularly if the member was anxious to transfer out of the facility where the charges arose. As you know, disciplinary cases can pend for many months before they are resolved in arbitration.

Earlier this year, DOCS refused to allow the reassignment of an officer who was facing a non-termination NOD, even though she was next up for reassignment. NYSCOPBA grieved the refusal, alleging that refusing to reassign this officer because charges were pending against her violated Article 8, by imposing punishment without an arbitrator's ruling.

DOCS argued that Council 82 had consented to this practice. Although DOCS never produced any written agreement signed by Council 82, the past practice was indisputable. DOCS asserted only that it would, in certain cases, allow reassignments in its "discretion." Under the new settlement agreement, which is attached, DOCS now *must* accord normal reassignment rights to all members facing non-termination disciplinary charges.

The settlement does not extend new protections to members facing *termination* charges. While there was a chance of winning this protection if we had arbitrated, we considered this a very risky strategy, particularly because of the long past practice favoring DOCS' position. Had we arbitrated, we felt there was a significant possibility that DOCS' position would be upheld and that we would be stuck with the current practice in all cases. Additionally, even if we had arbitrated and won as to termination cases, it would not help members who are suspended, since a suspended employee obviously cannot reassign to another facility. We were also concerned that even if we prevailed as to termination cases, in cases where DOCS really wanted to prevent a member from reassigning, it would simply suspend the employee.

This settlement adds new protections for members in the majority of disciplinary cases. Any further expansion of protections in this area will have to be accomplished through negotiations.

Please do not hesitate to contact us if you have any questions about this settlement. Thank you.

cc: NYSCOPBA Executive Officers
Vice Presidents
Business Agents
Jim Littlefoot
Don Premo

STATE OF NEW YORK
SECURITY SERVICES UNIT

In the Matter of

SEP 27 2000

STIPULATION OF
SETTLEMENT

NYSCOPBA (Williams; Queensboro class action;
Lincoln class action; Fulton class action; Edgecombe
class action; MidOrange class action; Otisville class
Action; and Arthur Kill class action),

OER FILE NOS.
2000-01-2358, 2594
2595, 2596, 2597,
2704, 2705, & 2809

Grievants,

STATE OF NEW YORK (DOCS - Bayview; Queensboro;
Lincoln; Fulton; Edgecomb; MidOrange; Otisville; and
Arthur Kill C.F.s)

NYSCOPBA FILE NOS.
99-0720, 2000-305
2000-290, 2000-310
2000-274, 2000-379
2000-259, 2000-356

Employer.

WHEREAS, the above-referenced grievances were timely filed and processed through all of the pre-arbitration steps of the grievance procedure to arbitration; and

WHEREAS, the parties have determined to avoid arbitration through the settlement of these grievances; and

WHEREAS, no party to this proceeding is an infant or incompetent person for whom a committee has appointed, and no person not a party to this proceeding has an interest in its outcome; and

WHEREAS, each party to this proceeding was represented by counsel, had an opportunity to discuss with counsel all of the terms of the settlement and entered into the settlement willingly, without coercion or duress;

NOW, in full settlement of these grievances, and solely by way of compromise, the parties agree as follows:

1. NYSCOPBA agrees to and hereby does withdraw each of these grievances, with prejudice.

2. The Department of Correctional Services agrees, effective immediately, that any member of the Security Services Unit against whom a disciplinary charge is pending or brought shall retain the same reassignment rights as members of the Security Services Unit against whom no disciplinary charges are pending, provided the disciplinary charge does not seek termination as the proposed penalty.

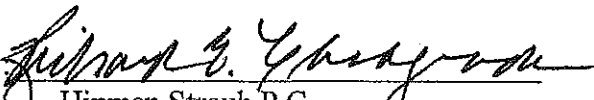
3. In the case of any member of the Security Services Unit against whom there is a pending disciplinary charge which seeks termination as a penalty, the current practice of suspending reassignment rights until the disciplinary charge is resolved shall continue. Nothing in this Settlement Agreement shall, however, deprive the Department of Correctional Services of its discretionary right to allow the reassignment of a member of the Security Services Unit despite the pendency of a Notice of Discipline which seeks termination as a penalty.

4. Nothing in this Settlement shall be deemed an admission of guilt or wrongdoing by either party.

5. The terms of this Settlement shall govern the reassignment rights of all members of the Security Services Unit employed by DOCS who have pending Notices of Discipline or who are brought up on Notices of Discipline in the future. Nothing in this Settlement shall, however, be deemed or used as an admission by either party concerning the proper interpretation of Article 8 of the collective bargaining agreement, nor shall this Settlement be used in any future arbitration between the parties as a precedent concerning the proper interpretation of Article 8.

6. This Settlement represents the full, final and complete resolution of these grievances. The parties shall take whatever steps are necessary to implement this settlement.


NYSCOPBA

By: 
Hinman Straub P.C.
Counsel for NYSCOPBA
Richard E. Casagrande
Of Counsel


DATED: 9/21/2000

STATE OF NEW YORK
(GOER AND DOCS)

By: _____
NYSGOER
Counsel for Respondent
Walter J. Pellegrini, Esq.
General Counsel for GOER

By: 
NYSGOER
Counsel for Respondent
Maureen Seidel, Esq.
General Counsel for GOER

DATED: 9/28/00


NYSDOCS
Peter B. Brown, Director
Bureau of Labor Relations

DATED: 9/28/00