

Frequently Asked Questions Regarding the 2016-2021 MOU

1. Is the MOU retroactive?

Yes. The MOU is fully retroactive to April 1, 2016, meaning that back pay and overtime will be recalculated at the higher rate from that date until the date the raises take effect.

2. Why did we take a 5-year deal?

With five years we were able to gain “soft money” and other changes that were not available to us in a three-year deal, including \$1,500 in Hazardous Duty Pay for Corrections members and moving onto the Corrections schedule for Law Enforcement members.

3. Why didn't we just take the 3-year deal that PEF accepted?

We weren't offered that deal. The State insisted that any 3-year deal for us would not include any soft money but would nonetheless require changes to Article 8 (discipline). A straight three-year contract with 2% in each year wasn't on the table for us. Given these circumstances, the collective bargaining committee unanimously felt that five years was better for us, as it would allow us to get things we couldn't otherwise obtain, including the soft money improvements mentioned above and numerous changes in contractual language and benefits that we were seeking.

4. Why didn't we go to binding interest arbitration?

Recent interest arbitration awards for law enforcement groups have not been good. The New York City police PBA recently took 1% and 1% in a two-year award. The New Jersey Troopers received 1.25% over a five-year period in their most recent arbitration award and had increments frozen. Looking at these and other awards, we found the present economic climate to be unfavorable for arbitration. We also felt that arbitration posed a risk of losing on the overtime denominator issue without getting anything in return, and of losing on Workers' Compensation, where the State wanted to roll back our existing benefit and the statistics favored their position. We ran the risk of the arbitrator agreeing with the state's position on the Fair Labor Standards Act overtime which does not count approved leave as time worked. Finally, we couldn't have gotten the improvement to the suspension process that we did, because an interest arbitration panel does not have jurisdiction over that issue. Weighing all of these considerations, we felt that interest arbitration was not in our best interests.

5. How do the 2% raises compare to the rate of inflation?

Measured by the federal Consumer Price Index for All Urban Consumers (CPI-U), which is the most widely used measure of inflation, inflation in the past year (November 2015 to November 2016) was 1.7%. In the three previous calendar years it was as follows:

2015 - 0.7%,
2014 - 0.8%
2013 - 1.5%.

So the 2% increases, together with the soft money that we demanded be part of this contract, have easily exceeded the rate of inflation over the last several years. While we can't predict what future CPI increases will be, the increases we negotiated protect us against a downturn in the State's economy and compare favorably with other recent contract settlements in the public and private sector. We are confident we left no money on the table and that we got as much in this MOU as it was possible to get.

6. Does the new "Discipline Table of Penalties" create new disciplinary infractions that our members can be charged with?

No. All of the offenses listed in that table describe things that members *currently* can be (and often have been) charged with. The only change is that for certain offenses, primarily those involving allegations of excessive force and related actions, a range of penalties is now specified. We think this is beneficial because it specifically tells the arbitrator that, except in the most egregious cases, even if you are found guilty of using excessive force *you do not have to be fired*. This gives arbitrators an option they may feel they don't currently have because the State always contends in these cases that termination is the only appropriate penalty. This penalty table says there is another option.

7. Does the new table of penalties allow me to be pulled off my bid if an inmate or patient makes claims against me?

No. You cannot be removed from your bid unless you are charged in an NOD with excessive use of force or other inappropriate contact and found guilty by an arbitration panel after a full arbitration hearing. Even then, you can only be removed when necessary to eliminate contact between you and the inmate or patient. In such cases, you will still retain your shift and pass days unless to do so would interfere with facility operations.

8. Why did we agree to a change in the overtime rate “denominator” from 2000 hours to 2080 hours?

The contract does not specify what the overtime denominator should be, and the State’s position (2080 hours) complies with the federal Fair Labor Standards Act. So there were lots of scenarios that we didn’t like that could have played out. One was if the State unilaterally made the change (which they have apparently done with another bargaining unit), in which case we might easily lose a grievance or improper practice challenging it. Another was if we went to interest arbitration and lost on the issue there (which we judged as quite probable) and got nothing in return. So we agreed to the change, but only after receiving full dollar replacement value (in Hazardous Duty Pay and other compensation above-and-beyond the across-the board increases) for what the change was worth to the State. Under the circumstances, we feel this was the best way to protect the membership on this issue. Our overtime rate still increases over the life of the contract by an average of about 8%.

9. Why did we agree to increases in health insurance co-pays?

After carefully reviewing the extensive documentation concerning utilization under the Empire Plan, it became clear to us that permitting reasonable increases in co-pays (which haven’t gone up in recent years) was the best way to slow the growth of rising premiums. While nobody wants to pay more, co-pays increases don’t go to the State; they go to the Plan itself and reduce its cost, thereby keeping premiums from rising more sharply. In the long term, it’s in everyone’s interests to keep premiums as low as reasonably possible, since we all pay them. The State recognized this by lowering our premiums relative to those who haven’t agreed to the co-pay increases, beginning in July 2017. By January 2018 our members will pay \$8.50 per pay period less for family coverage under the Empire Plan than other employees who have not agreed to the increased co-pays.

10. What is the actual effect of agreements to send items to a committee?

When items are sent to a committee through a negotiated agreement there is no obligation from either side to do anything with those items. All that is legally agreed to is that the issue will be discussed in committee. The state has used this tactic often in the past. NYSCOPBA is doing that in this negotiation for the state’s worker’s compensation proposals. In common language in contract negotiations proposals are sent to committee to die.

11. Did we accept the first monetary offer the State made?

No. We first sat down with the State in December of 2015, and over the course of the ensuing year we conducted dozens of bargaining sessions with them. The issues between us, including compensation, were extensively discussed and explored, and offers and counteroffers were made throughout that period. The money we negotiated was the product not only of the bargaining table but an all-out political and lobbying effort to get the most we could get. In the end, we are confident we got to the point where there was nothing left on the table.