

Letter to All NYSCOPBA Members

Dear Member:

On December 22, NYSCOPBA's Collective Bargaining Committee unanimously approved a Memorandum of Agreement (MOU) with the State for a new, five-year contract covering all members. On January 6, the Executive Assembly approved the MOU, which is contingent upon ratification by the membership. We now present it to you for your consideration.

Your ballot is enclosed. It must be received no later than close of business on February 24th. The ballots will be counted at the American Arbitration Association in New York City on February 27th.

The complete MOU is posted on our website, along with the new salary schedules, total compensation charts, back pay estimates, and other particulars. We encourage you to review these documents and to attend the informational meetings that the Collective Bargaining Committee will hold around the state between January 17th and February 2nd to explain the agreement and answer all questions. The schedule of meetings is posted on our website.

Here are the basic terms of the agreement:

1. **Term.** This is a five-year contract, from April 1, 2016 to March 31, 2021.
2. **Across-the-Board Salary Increases.** All steps on the salary schedules will increase as follows:
 - April 1, 2016 – 2%
 - April 1, 2017 – 2%
 - April 1, 2018 – 2%
 - April 1, 2019 – 2%
 - April 1, 2020 – 2%

The raise is fully retroactive and all members will receive back pay. All overtime earned from April 1, 2016 until the date the raises take effect will be recalculated at the higher rate.

3. **Hazardous Duty Pay.** A new payment recognizing the daily hazards of our jobs is established as follows:

Corrections members (arbitration eligible):

January 1, 2018	-	\$625
January 1, 2019	-	\$775 (\$150 increase)

January 1, 2020	-	\$975 (\$200 increase)
July 1, 2020	-	\$1,175 (\$200 increase)
December 1, 2020	-	\$1,500 (\$325 increase)

Law Enforcement members (arbitration ineligible):

January 1, 2018	-	\$200
-----------------	---	-------

Hazardous Duty Pay will be paid in the same manner as bi-weekly salary and is pensionable and will be included in the calculation of the overtime rate.

4. **Law Enforcement Salary Schedule.** Effective July 1, 2019, all members now on the Law Enforcement (arbitration ineligible) salary schedule will move to the corresponding step on the Corrections (arbitration eligible) salary schedule, leaving one salary schedule for our bargaining unit.

5. **25-Year Longevity Step.** Effective October 1, 2020, \$500 is added to the 25-year longevity step.

6. **Location Pay.** For all members in the Mid-Hudson and Downstate location pay areas, the existing location payments will increase as follows:

April 1, 2016 – 2%
April 1, 2017 – 2%
April 1, 2018 – 2%
April 1, 2019
Mid-Hudson - \$250
Downstate - \$500
April 1, 2020
Mid-Hudson - \$100
Downstate - \$125

A chart detailing Location Pay amounts is posted on NYSCOPBA's website.

7. **Health Insurance.** The following changes are made to the various programs that are covered under the health insurance article of our contract:

A. Prescription Drugs. Effective July 1, 2017, for Tier 1 (generic) drugs, co-pays for a 30-day supply (retail or mail) increase from \$5 to \$8; for a 31 to 90-day supply, from \$5 to \$12 for mail and from \$10 to \$16 for retail. Proportional increases for tiers 2 and 3 drugs are posted on NYSCOPBA's website.

B. Medical and Hospital Programs. Effective January 1, 2018, office visit co-pays for primary and specialty care providers and for physical therapy services will increase from \$20 to \$25, and on January 1, 2020 to \$35. Urgent care, ambulatory surgery

center and ambulance co-pays will also increase on January 1, 2018, in amounts reflecting the higher actual costs of these services to the health plan. For network hospital and mental health inpatient admissions, there will be a \$100 co-pay per stay effective January 1, 2018, increasing to \$250 on January 1, 2020. Non-network coinsurance maximums also increase on January 1, 2018. The full schedule of increases is posted on NYSCOPBA'S website.

Although we regret the need for these increases, we found that it was the most fair and appropriate way to keep premiums down. Effective July 1, 2017, our health insurance premiums will be reduced by \$.53 and \$1.71 (for individual and family plans, respectively). On January 1, 2018 we will pay about \$1.70 and \$8.50 (for individual and family plans, respectively) less than employees in bargaining units that have not accepted the increases. These reductions will amount to approximately \$44 in savings per year for the individual plan, and approximately \$220 in savings per year for the family plan. Over the long term, the increases to co-pays and deductibles we accepted will keep premiums from increasing as sharply as they otherwise would and will more fairly allocate the burden of paying for health care among our members. The increases will have the greatest impact upon those who use health care services most frequently.

C. Dental Program. We increased the annual maximum from \$2,300 to \$3,000. We included dental implants as a covered charge, up to a limit of \$600 per implant. The orthodontic lifetime maximum is increased from \$2,300 to \$3,000.

D. Vision Care Program. Digital progressive lenses will now be a covered service at a participating provider, with a \$90 co-payment. Yearly contact lens exams will now be provided for enrollees whose last contact lenses were covered through the Vision Care Program.

Through the Joint Committee on Health and Dental Benefits, we will be exploring a telemedicine program and a value-based insurance design.

8. **Discipline.** As a result of unfavorable media attention that has been directed at DOCCS and its operations, the State demanded certain changes to our disciplinary process. Although we did agree to some changes, overall we believe we enhanced our contractual protections under Article 8. *We continue to have binding arbitration in all disciplinary cases.* The specific changes we negotiated are:

A. Tripartite Panel. For NODs alleging inmate/patient abuse, a three-member arbitration panel will hear and determine the charges. We see this as beneficial because NYSCOPBA appoints one member to the panel, giving us direct access during the entire hearing to the neutral arbitrator who serves as chairman. For certain serious charges, a table of minimum and maximum penalties is established. Only in

the most egregious cases, where the charges would constitute felonies under the Penal Law, is the minimum penalty termination. *A penalty can only be imposed if the member is found guilty by the arbitration panel.* For most charges, the minimum penalty is a 90-day suspension without pay, giving a member found guilty a chance to keep his/her job in cases where they might otherwise be terminated. Members who are found guilty cannot be transferred to another facility and will in most cases be allowed to keep their shift and squad, although they will be moved away from contact with the individual they were accused of abusing. Significantly, the table of penalties does not create new categories of discipline; it only establishes a range of maximum and minimum penalties for existing categories.

B. Expedited Arbitration. The State agreed to extend the current expedited arbitration procedure and to make it a permanent part of the contract (so that it will not “sunset” when the contract expires). The State also agreed to a procedure designed to limit an agency’s ability to “opt out” of an expedited hearing. Further, we increased the fees for disciplinary arbitrators, which will encourage a greater number of arbitrators to serve on our panel of disciplinary arbitrators.

C. Suspensions Without Pay. We established a new process, involving an appeal through our Triage arbitrator, to quickly challenge a suspension without pay that we feel is unwarranted. Where a suspension is found not to meet the contractual standards, the member will be restored to the payroll or have leave credits restored, as the case may be.

D. Table of Penalties in Non-Abuse Cases. We established a range of minimum and maximum penalties for those found guilty of possession of certain types of contraband at the entry to a facility. For most types, the minimum penalties are well below the typical penalty imposed when a member is found guilty after an arbitration hearing. It’s our hope that these minimum penalties will encourage favorable settlements in future cases. In two other situations – being found guilty of use or possession of illegal drugs or possession of contraband illegal under the Penal Law – we conceded, consistent with virtually all arbitration decisions, that termination was the appropriate penalty.

9. **Overtime Rate Calculation.** Effective the same date the across-the-board raises takes effect, the overtime rate will be calculated using a denominator of 2,080 hours (52 weeks times 40 hours per week), rather than the current 2,000. Using 2,080 hours is consistent with the Fair Labor Standards Act definition of time and one-half. The State remains obligated to pay overtime at 1.5 times the hourly rate of pay. Although using 2,080 hours instead of 2,000 produces a slightly lower overtime rate initially–by a few cents–members’ rates will actually *increase* over the life of the contract, as the across-the-board increases and the addition of a new Hazardous Duty payment will bring the hourly rate higher than it is now. *This change is not retroactive.*

Another law enforcement bargaining unit has already accepted this calculation method; this issue was brought to our attention as a result of those negotiations. All of the savings the State will realize from this change are returned to the membership in the form of compensation enhancements above and beyond across-the-board increases.

10. **Bill of Rights.** The State agreed to enhance our members' contractual right to union representation to include not only targets of investigations but any member who would be entitled to representation under the Taylor Law. This would include probationary employees and those who are merely potential subjects of discipline. In addition, members served with a notice of discipline will now automatically receive a transcript of any "Q&A" that was recorded during the investigation of their conduct.

11. **Contract Grievances (Article 7).** We achieved two changes in this article that are designed to speed up the grievance resolution process. First, the State agreed to issue a Step 3 decision within 30 days of submission or, when NYSCOPBA requests a meeting, within 30 days of the meeting. No such limits currently exist. Second, we increased the number of grievance arbitrators to six and increased their fees, which should allow us to schedule more arbitration hearings. In addition, we negotiated specific language that permits NYSCOPBA to place a grievance in "hold" status in cases where it is pursuing an informal resolution.

12. **Workers' Compensation.** Although the State had proposed reductions in our benefit and pressed that issue throughout negotiations, in the end we made no changes to the existing benefit. We did agree to continue the existing Joint Committee on Workers' Compensation and to study various aspects of Workers' Compensation, including: the Medical Evaluation Plan; the light duty process; the fact that employees on the non-taxable full pay benefit may take home more than those who are working; a pilot PPO program; and revised administrative procedures. We aren't required to agree to any particular proposals made in Committee and none can be implemented unilaterally.

13. **Bereavement/Family Sick Leave.** We increased the maximum number of days that members may use for bereavement or family sick leave from 15 to 30. Members who have already used 30 days, or who have exhausted their sick leave credits, may now request to use other leave credits (that is, vacation, personal leave, holiday leave) for bereavement or family sick. Such request cannot be unreasonably denied.

14. **Article 24 (Seniority).** This article is amended to provide that service in title counts toward seniority regardless of whether it was "interrupted." The Committee felt that this was a more fair way to recognize all time an employee puts in on the job.

This change includes employees who are laid off and later return—they will not be considered to have had a break in service.

15. **Labor/Management and Program Funding.** All of the programs and committees that deliver employee benefits for the membership were continued and the funding was increased in each year by the across-the-board amounts. These programs and committees include: Employee Assistance Program; Education and Training (tuition assistance); labor/management training; QWL funding; Employee Benefit Fund; Family Benefits (Dependent Care); Organizational Alcohol Program; and the Joint Committee on Health and Dental Benefits.

16. **Reopener Agreement.** We secured a so-called “me too” clause that will allow us to reopen salary negotiations if any other bargaining unit receives higher across-the-board increases.

17. **Justice Center.** In response to concerns of our Law Enforcement members concerning “substantiated” cases of neglect prosecuted by the Justice Center and the administrative procedures associated with them, the State agreed to form a labor/management committee to explore these issues.

18. **Job Bidding While on Approved Leave.** In response to our concerns about certain facilities where we contend job bidding practices discriminate against members on Workers’ Compensation and other forms of approved leave, the State agreed to form a labor/management committee to study the issue and implement any agreed-upon revisions.

19. **Union Leave Reimbursement.** The State agreed to a change in the reimbursement formula under which NYSCOPBA pays for the costs of members on union leave. The change will reduce our annual union leave expenses.

20. **Inconvenience Pay Labor/Management Committee.** We established a joint labor/management committee to study how and when inconvenience pay is provided and to implement any necessary changes.

Why We Approved This Agreement

One unavoidable reality we had to confront at the table was the ever-increasing rise in health insurance premiums. We pored over extensive charts and documentation detailing the plan's costs and expenses. We do not negotiate premium rates—they are based on usage (both of medical services and prescription drugs) and the costs of that usage to our health insurance plan. One way to reduce premiums is to increase co-pays. By accepting reasonable increases in those payments (which had not changed in many years), we saw an opportunity to proactively slow the growth of our premiums and, because we were the first bargaining unit to take that step, demand increases in compensation to reward us for doing so. As a result, beginning in July of 2017 when the first co-pay increases take effect, our health premiums will be lower than those in other bargaining units. By January 1, 2018, when the increases are fully implemented, our premiums will further be lowered relative to other bargaining units—by about \$220 annually for members on the family plan.

The impacts on compensation, which are at least partially attributable to having agreed to reasonable co-pay increases, are compelling. After years of trying, we got the State to recognize Hazardous Duty Pay as being appropriate for our members. The \$1,500 payment Corrections members will receive by the end of the contract is worth almost 2.5% above and beyond the across-the-board increases. On the Law Enforcement side, by moving all members onto the corrections salary schedule in 2019 we corrected a long-standing inequity that is comparable in value to Hazardous Duty Pay for corrections members. Over the five years of the agreement, when Hazardous Duty Pay is factored in, every step on the corrections salary schedule is increased from between 12.6% and 13.5% for Corrections members, with a similar increase realized for Law Enforcement. By increasing location pay, we have addressed the needs of our members in higher cost-of-living areas. Finally, adding \$500 to the 25-year longevity step in October of 2020 boosts the salary of members who stay beyond 25 years and also enhances longer-term retirement allowances.

As we noted above, throughout the negotiations the State was demanding reductions in our Workers' Compensation Leave benefit that would have adversely impacted most members who go out on comp. We were able to hold the line and keep our current benefit, which we view as a win given the considerable statistical evidence that most corrections members who use the benefit are not injured through a use of force or by other direct inmate contact.

Negotiations regarding discipline were unavoidable, as the intense media scrutiny of uses of force and other issues within DOCCS caused the State to seek changes in the

current procedure. We successfully fought the State's attempt to impose a State Police-style process where the commissioner would make the final decision on penalty in use-of-force cases. Ultimately, we came up with some new approaches that we see as advantages over what we have now. We retain full binding arbitration of every disciplinary case.

The many beneficial language changes we were able to get, some of which we have pursued for many years, provided an additional reason to approve the MOU.

We held dozens of negotiating sessions with the State over the course of nearly a year, discussing the issues before us thoroughly and in great detail. These meetings, although difficult at times, were ultimately productive. They produced a favorable compensation package given the current economic climate. Weighing this five-year offer against the alternatives, it became clear to us that five years was our best option. The three-year contract recently accepted by one of the other state bargaining units—which did not include changes to the disciplinary process, but also lacked the enhanced compensation benefits we negotiated—was not on the table in our negotiations with the State. We also considered interest arbitration, but recent awards in New York and nearby states have been very problematic, containing in some cases little or no raises and significant “give-backs.” After carefully evaluating and discussing all of these options, we agreed that the five-year package we are presenting to you here was the best choice.

In the final weeks of negotiations, we used all of the means at our disposal—including a forceful lobbying effort—to squeeze every possible dollar and concession from the State. We're confident that we left no money on the table. The package we present to you here represents our best possible effort.

Thank you for your support and patience during the negotiations process.

Sincerely,

NYSCOPBA Collective Bargaining Committee

Mike Dildine, Executive Recording Secretary, *Co-Chair*

John Harmon, Vice President Law Enforcement, *Co-Chair*

Central Region – Ted Nevills, Watertown

Law Enforcement – Rich Janes, CNYPC

Mid-Hudson Region – Kevin Donnelly, Coxsackie

Northern Region – Ed Scott, Clinton

Southern Region – Dave Luther, Sing Sing

Western Region – Andy Rice, Elmira