

DRAFT

**PEF/SED Labor-Management Agenda
April 19, 2013**

**CONFIDENTIAL –
FOR DISCUSSION
PURPOSES ONLY**

Successor Statewide Labor-Management Memorandum of Agreement - 20 minutes

PEF is committed to negotiating a successor MOA that meets the needs of our members by preserving key tenets that provide labor and management ample opportunities to work together in L/M while complying with contract requirements. We have provided a copy of our latest counter-proposal in response to management's last proposal from September, 2012. We are prepared to entertain feedback and general questions but would delegate the actual completion of negotiating a successor MOA subject to approval by all of our Divisions to a smaller committee made up of representatives from management and labor.

Labor-Management Meeting Schedule

To avoid the problems of the recent past in scheduling and conducting future Statewide L/M meetings, PEF proposes that we schedule at a minimum three future dates for L/M meetings in 2013 and that both sides commit to attend these meetings under the auspices of the current L/M MOA, including requirements for joint development of meeting agendas, timely dissemination etc, until such time that a new MOA has been adopted and will govern future meetings. PEF proposes both parties commit to meeting in Statewide L/M as follows:

- Week of June 24, 2013
- Week of Sept 23, 2013
- Week of Dec 9, 2013

OLD BUSINESS

Action Items from March 14, 2012 Meeting

(see attached for detail and specific information mgmt committed to provide PEF)

Minutes – 2 min

PEF would like all old minutes approved by mgmt and posted

Leased Office Space – 5 minutes

PEF would like to ensure members are working in safe environments; that member access to parking for each facility preserves current allocation of parking spaces, retains current waiting list queue and is adequate to demand; PEF would like to meet with management to discuss the impact of any agency relocations on members

Support for Internal Staffing Capacity – 5 minutes

PEF wants to ensure all efforts are undertaken by mgmt to secure waivers from DOB to support increasing workload on staff to avoid the necessity of requesting and incurring overtime costs; PEF wants to confirm that LATS can record all hours worked, as required by the contract and that all supervisors have been instructed NOT to prevent SED employees from recording all hours worked;

Role of the Fellows hired with private funding through the Regents Research Fund – 10 minutes

PEF seeks to confirm that RRF Fellows understand they do not supervise SED staff; that the RRF pays for any costs associated with supporting the Fellows so that regular SED budget expenditures support only state programs administered by state employees and that their role is limited to conducting research.

IT Contracting Out - – 5 minutes

PEF is concerned that the Dept is continuing to rely heavily on outside contractors, particularly for IT projects and that this work could and should be done in-house. In those instances where it is necessary to contract out, PEF

wants to ensure that mgmt includes knowledge transfer language in these contracts and has adequate staffing to assume these new IT admin duties.

Program Evaluation - Position Qualifications – 5 minutes

PEF seeks to followup with mgmt to determine if they considered whether or not to utilize in-house staff who are capable of completing program evaluations in this capacity, especially, for example with the Race to the Top program. PEF's concern is that joint labor-mgmt efforts to provide development and promotional opportunities are few and far between and this most recent effort provided an excellent opportunity to tap in-house talent for new program work. If these opportunities are not exploited, we risk compromising efforts to encourage staff to develop their skills in the future with a subsequent impact on staff morale.

Bilingual Funding – Expenditure Plans – 2 minutes

PEF seeks to confirm whether or not research funding was included in the expenditure plan. Why?

NEW BUSINESS

Telecommuting – 5 minutes

PEF requests that the issue of our prior telecommuting agreement be discussed to move to a telecommuting policy in SED.

Joint SED Mgmt & PEF Labor-Management Training – 5 minutes

Previously PEF had requested that we jointly request GOER provide training in Labor-Management processes and protocols. At that time, Management repeatedly postponed plans for attending the training due to scheduling difficulties. Given that NYSED Management and PEF Leadership have changed recently, PEF would like to revisit this and request Management's support and cooperation for jointly requesting and participating in Governor's Office of Employee Relations (GOER)-sponsored Labor-Management training.

Accurate Work Hours Reporting & LATS – 5 minutes

Consistent with contract requirements, PEF requests that HR send out a communication to all staff and managers to:

- clarify that all staff should use LATS to document actual hours worked and, where LATS is not used, that hand-written time sheets record actual hours worked;
- that overtime eligible staff cannot be paid for overtime they work without prior management approval,
- that a consistent policy be employed by management regarding prior approval and subsequent use of the accrued 2.5 hours of "comp time" for overtime eligible staff and
- that staff SG-23 and above cannot adjust their LATS to make a workweek adjustment by entering less than 7.5 hours on days within a pay period when they have exceeded 37.5 hours because of working excess hours on other days within that pay period.

Medical Parking Procedure | [SED policy](#) – 5 minutes

PEF requests that the [Employee Health Services](#) (EHS) Nurse be the person that reviews medical forms for individuals applying for medical parking. A recent change was instituted at management's request stating that the wait time for the EHS Nurse to review requests was too long so they proposed that the Director of Diversity, Ethics and Access review this documentation. Unfortunately, however, the subsequent post-application denial and appeal process also includes this individual in a decision-making capacity. Obviously, it is inappropriate for the same individual to review the application and to make recommendation related to the appeal. In addition, PEF requests that SED provide clear, accurate and consistent guidelines for acceptable medical documentation and accept valid medical documentation as presented by staff.

Flexible Work Schedules | [SED policy](#) – 5 minutes

PEF acknowledges the recently distributed [email](#) reaffirming Time and Attendance rules defined in the Department's [Employee Handbook](#). Notwithstanding this communiqué, PEF seeks to remind management that our current contract defines work day start times from 6 AM to 10 AM and requests that the restrictions that are

placed on flexible work hours be addressed and that these more flexible start times be implemented. Further, PEF requests management end the artificial separation between hours allowed for AWS and the more restrictive hours allowed for what SED calls other Flexible Work Schedules.

Family Medical Leave Act | [SED policy](#) – 5 minutes

PEF requests that the Office of Human Relations (HR) provide clear communication to all staff about FMLA and that HR stop the practice of making it extremely difficult for staff to get FMLA approved while at the same time disciplining staff because HR will not allow flexible work schedules. In addition, when staff do get approved for FMLA to work flexible work schedules, if they do not meet the threshold for renewal, HR takes away their flexible work schedule and then disciplines them for not being able to work a work schedule that is problematic for them.

Reasonable Accommodation | [SED policy](#) – 5 minutes

PEF requests that HR provide clear communication to all staff about Reasonable Accommodation especially related to flexible work schedules and any requirements associated with renewing accommodations. In addition, PEF requests that HR stop second guessing medical documentation. Staff have endured an unending process of trying to supply additional information that will meet HR's request but are provided no clear information about what additional information HR is looking for.

School for Deaf – 10 minutes

Some items from Victoria Stockton who is the Council Leader at the School for the Deaf:

- Payment for IAs/SEAs (Instructor Assistants/Special Education Assistants) working beyond their normal workday
- Sub teacher payment rates
- We have a multiply-handicapped student (currently without educational services) awaiting entry pending the approval to hire a full time assistant needed to work with her. How might we speed-up that process a bit?
- Our former and current Superintendents asked that we be permitted to add a full-time teacher sub to our list of hires. As our district in no way accommodates 'long-term subs' (as do all our area districts), a position of full-time substitute teacher would allow for needed coverage.

If you could follow up with the Superintendent from the School about why these items are not resolved it would be helpful. The Superintendent doesn't attend the meeting and often what happens is that HR says they don't know anything about the issues and will have to get back to us so it takes a long time to get issues pertaining to the School resolved. It would be helpful if you would consider having the Superintendent phone in to the meeting for at least the portion of the agenda about the School.

Leadership of Office of Teaching Initiatives – 5 minutes

Recently, a communication went out in Office of Higher Education (OHE) that an Administrative Assistant is in charge of the Office of Teaching Initiatives (OTI). PEF has several concerns regarding this:

- the message this sends clearly contravenes established standards for the current title and seems to encourage or sanction out of title work
- we have a long standing request that a career ladder be established for the Education Credentials Specialists in the Office of Teaching and that it include an Education Credentials Specialist 3 to provide supervision and management of professional staff. The Office of Comparative Education within the Office of the Professions does have the complete Education Credentials Specialist (ECS) career ladder in place and we have pointed out the need for the ECS 3 in the Office of Teaching since the creation of the title series in SED that is exclusively used in these two sections of SED. PEF feels that the resolution of this issue is imperative now because an Administrative Assistant title is not appropriate to supervise and oversee the work of Education Credential Specialists.

Staff Succession Plan – 10 minutes

One issue we brought up at our last ACCES L/M meeting was the need for an SED succession plan. The response by mgmt. was relative to ACCES. They cited CSPD, the Internship Program, etc as examples of efforts to get and keep people. However, given that adequate, sustained staffing of all NYSED programs is crucial to maintaining the vital services we provide, we need to ask: Does the Department have anything that could be called a "succession plan"? If no, and if DOB will not approve waivers for an adequate number of staff to enable carrying out work functions, what is management's plan for sustaining programs and ensuring that current employees are not burdened with an excessive workload? Is there any effort to quantify workload capacity and consequences of failing to sustain adequate staffing to handle expected workload?

Race to the Top Maintenance of Programs – 10 minutes

PEF is concerned that current staff hired for the RTTT program will be laid off when the grant expires. With the anticipated conclusion of the Race to the Top program and grant in August, 2014, what plans does the Department have to continue programming begun under the grant? Will RTTT-funded staff be retained by the Department after the grant expires? Will the Department submit a request for extension of RTTT for initiatives that have not been completed by August, 2014? Will the RRF Fellows associated with the Regents Reform Agenda, including RTTT, be continued? When do their employment contracts expire?

"Abolished items" – 2 minutes

Is there a process to retrieve or restore items "abolished" with the Early Retirement Incentive? If so, does Management have any plans to seek restoration of any items?

Recruitment and Selection Planning Process (RASP) – 15 minutes

PEF supports the agency's efforts to utilize an explicit, transparent and fair process to recruit the most qualified individuals from a large, diverse employment pool of applicants. This formerly automated process, including the Department's explicitly Regents-approved commitment to meeting diversity targets for the Department, appears to have been abandoned. Please confirm what process and protocols the agency is now following with regard to recruitment and selection of new employees and how Management oversees this process to ensure diverse, qualified candidates are recruited for vacant positions. If the Dept has not abandoned RASP, why hasn't the Dept completed development of the Comprehensive Staffing Request (CSR) application which was 99% built as a replacement?

Please clarify the following recruitment and selection processes:

- **Resume-screening process** - Some confusion regarding HR resume-screening process when receiving applications for vacant positions. Does OHRM screen for qualifying candidates only or do they make judgments about "best qualified/best fit" from among qualified candidates? Please clarify.
- **Vacant Position Postings Process** -- What is the procedure when a posted position's requirements/qualifications change during the course of a posting? Are actual and potential applicants (especially in-house) notified of these changes? Do we post different job postings on the AtWork, NYSED.gov and Civil Service web sites? If so, why? Are we no longer physically posting job openings on Bulletin Boards throughout the Department?
- Recently a Regents Fellow was appointed to the Executive Director, Educator Effectiveness Policy and Programs in the Office of Higher Education. PEF believes there was no posting of this vacancy and is concerned that this candidate was appointed without going through the appropriate application and interview process that ensures she has the credentials and experience to assume this position. Further, if there was no posting, other qualified professional staff who may have been interested in applying for the position would have had no opportunity to apply for consideration. Can you please clarify the status of this position and its incumbent? If there was no public posting and vetting process, what steps will management take to ensure that this does not occur again?

Supervisor in Education Programs title - 2 minutes

Any plans to use this title or to enable eligible individuals with Associate in Education Improvement Services experience to apply for the Supervisor in Education Testing positions (which would require Mgmt to work with Dept of Civil Service (CS) to make individuals with the Assoc credentials eligible for the Ed Testing position)?

Agency Reorganization/OHRM responsiveness to PEF requests for information – 10 minutes

Many employees, both management/supervisory and professional - especially those associated with the Reform Agenda and RTTT, are being routinely relocated between OHE and P-12 in particular. PEF needs to track this movement to ensure continuous communication with our members and that they are not being required to perform out of title work inconsistent with the job duties associated with the positions they were hired to fill. To this end, we have made repeated requests in OHE and P-12 L/M for copies of up to date organization charts showing the distribution of staff and supervisors by title and function, but have received none to date. PEF requests up to date organization charts for all SED Program Areas. Further, PEF has requested on multiple occasions that OHRM provide us with up to date lists of all employees represented by PEF and have received nothing since last July. PEF requests an up to date list of members and that we receive this list on a quarterly, regular basis.

Use of Overtime/Overtime Policy – 10 minutes

PEF is concerned that overtime-eligible staff are being required to work overtime without proper compensation in accordance with the contract and that uncompensated overtime may be used by mgmt. to overcompensated for staffing cutbacks. We have requested, and the CFO has agreed, to provide us with information including: Program area/title specific use of overtime in the past two years; An explanation of why overtime expenditures jumped from less than \$100K to \$250K from 2011 to 2012 (according to OSC figures) and a clear policy statement explaining how the Department decides to expend overtime dollars. Consistent with the contractual requirement of accurate reporting of all hours worked above, PEF requests a commitment from Mgmt that, as a part of any training or dissemination of overtime policy to managers and supervisors, at a minimum that they will inform all supervisors of the contractual requirements associated with overtime compensation, not request that overtime eligible employees work overtime without compensation and reaffirm the agency's policy is to comply with the contracted requirements.

Lack of Staff Development in SED – 10 minutes

PEF is committed to supporting staff development opportunities for all of its members and recognizes the importance of providing staff development for ALL NYSED employees, including managers and supervisors. To that end, we are concerned that the Dept has pared back the Staff Development office from 6 FTEs to 1 FTE. This has resulted in a substantial retrenchment from what was once an ambitious program including training for professionals and clerical staff as well as supervisors and leaders. Further, this has resulted in cancellation of nearly all (except online and ITS Desktop applications) training opportunities. How does Mgmt expect to develop SED employees to improve performance and productivity and replace retiring agency veterans without a fully-staffed Staff Development Office? PEF has received a number of complaints from members working in units with new supervisors apparently unfamiliar with basic tenets of supervision and employee relations in a collective bargaining context. Without supervisory training programs in place, how does SED Mgmt intend to train and support these new supervisors to ensure they are following the contract with regard to the way they treat PEF employees?

STANDING ITEMS

State and Federal Budgets – 10 min

NYS - Update on impact of recently-passed NYS 2013-14 budget on NYSED; specifically, PEF requests a presentation regarding plans for implementing the addition of the newly-approved 101 FTEs including: where these positions will be located, what titles, number in each title and how this adds to the current total number of FTEs approved for the Dept. We would also like the current fill level and a copy of the expenditure plan which will implement the new budget.

PEF's interest: To ensure all newly-funded positions are filled, including potential promotional opportunities and that all other currently funded positions (fill level) are maintained.

Fed – Update on impact of recently implemented federal sequestration on NYSED programs, employees and program constituents. PEF wants to know how the cuts will be managed and if any cuts will be implemented in the current workforce funded with federal funds.

Legislation – 5 min

Update on any new legislation affecting NYSED programs or employees.

Examinations – 5 min

Update on all anticipated or planned Civil Service Examinations scheduled and any impact on incumbents in provisional titles.

New titles, reclassifications, title structure changes or reallocations – 5min

Update on any changes to the current workforce.