

**MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE OF NEW YORK
AND
THE NEW YORK STATE CORRECTIONAL OFFICERS AND POLICE BENEVOLENT
ASSOCIATION, INC. (NYSCOPBA)**

Whereas numerous Correction Officers and Correction Sergeants of the Department of Corrections and Community Supervision (DOCCS) have been engaged in an illegal and unauthorized strike; and

Whereas the State and NYSCOPBA affirm the importance of ending the illegal strike and engaging in a good faith dialog to address the concerns of the union and its members; and

Now, therefore, the parties enter into this Memorandum of Agreement (MOA), including a process for enforceability of this MOA, that will govern the end of the illegal strike and address the concerns regarding employee safety and quality of working life inside DOCCS facilities:

(1) (a) HALT Act

The Commissioner of DOCCS will exercise his existing discretion under the HALT Act and continue the temporary suspension of the programming elements of the HALT Act for 90 days from the date of the MOA due to the ongoing emergency and exigent circumstances that exist within each facility due to the illegal strike and the significant staffing deficit that existed prior to the illegal strike. After 30 days from the date of the MOA, the Commissioner of DOCCS will begin to evaluate the operations, safety, and security of our facilities relative to staffing levels and determine whether re-instituting the suspended elements of HALT would create an unreasonable risk to the safety and security of the incarcerated individuals and staff. This analysis will be done on a facility-by-facility basis and will be ongoing. The suspension applies only to the HALT Act provisions contained within Correction Law sec. 137 pursuant to which the Commissioner has operational discretion, and specifically to the provisions that have been directly impacted by the staffing crisis and illegal strike, and not to the other elements of the HALT Act. DOCCS will continue to follow all other elements of the HALT Act requirements.

(b) "Circuit Breaker" Staffing Metric

The "Circuit Breaker" Staffing Metric analysis shall be used upon the conclusion of the suspension of HALT-related programming discussed above. On High Impact Days, defined as Friday, Saturday and Sunday, which is typically when we have less staff available, DOCCS will deploy the "Circuit Breaker" Staffing Metric that will be used to determine if a facility-wide emergency exists based on exigent and emergency circumstances associated with inadequate staffing levels that would create a significant and unreasonable risk to the incarcerated, staff or facility.

The "Circuit Breaker" Staffing Metric, on High Impact Days, will consider the net staffing levels to include Budget Fill Level, plot plan, absences and voluntary overtime. If the staffing vacancies are at or above 30% of the plot plan, the following action will be taken to avoid 24-hour mandatory overtime:

- a. Facility will close posts in order to address the shortfall. If still not sufficient staffing, then;
- b. Facility will suspend general population programming. If still not sufficient staffing, then;

- c. Facility will suspend HALT Act provisions contained within Correction Law sec. 137 pursuant to which the Commissioner has operational discretion, and specifically to the programming for only the day(s) that meet the specific criteria.
- d. The Circuit breaker provision will not apply to other elements of the HALT Act.
- e. The Commissioner of DOCCS retains the discretion to determine other high impact days.

(b) HALT Committee

The parties agree to establish a committee comprised of representatives of NYSCOPBA and DOCCS and other parties, as set forth herein. The committee will begin its work immediately after the signing of this MOA and within 60 days of the date of this MOA present agreed upon recommendations to the New York State Legislature regarding changes to the Humane Alternatives to Long-Term (HALT) Solitary Confinement Act. The committee will focus on areas that address the safety of staff and incarcerated individuals to include, but not be limited to, keeplock, assaults on staff, and assaults on incarcerated individuals. The committee will establish a minimum number of meetings to be held. The committee will be made up of as follows:

1. NYSCOPBA will present 1 representative from each facility and then identify one of the representatives from each Hub/Region to participate.
2. Other State Unions - Council 82, CSEA and PEF, shall be offered the opportunity to have a representative on the committee.
3. DOCCS will appoint as many State agency representatives as necessary to carry out the objectives of the committee.

(2) Changes to Overtime

- a. The joint goal is to minimize and work towards eliminating anyone working 24-hour mandatory overtime. The parties agree to the following points to aid in this goal.
- b. Weekend Voluntary Overtime Differential – any Correction Officer or Sergeant who volunteers and works overtime on Friday, Saturday, or Sunday will receive a pay differential of \$100 per shift worked on such day.
- c. DOCCS agrees that it will maintain 12-hour shifts for Correction Officers and Correction Sergeants until it determines that each facility has returned to pre-strike staffing levels. When a facility returns to pre-strike staffing levels, DOCCS will return employees to their shifts/squads prior to the strike. Each facility superintendent will take measures, to the best of their ability, to honor an employee's regularly scheduled day off.

(3) Committee on Plot Plan Efficiency

The parties jointly agree to establish a Committee to analyze each facilities staffing and operational inefficiencies with the goal of providing more relief to existing staff. An independent staffing specialist shall be retained to conduct this analysis. As part of the review, the independent specialist, along with the Committee, will review all post orders for potential consolidation or elimination, realignment of non-security specific tasks and conduct a review of both 8-hour and 12-hour staffing plans in order to provide more relief to existing staff. The parties will also review the Annual Leave Day Formula, Vacation Bid Reposting Practice, and Incidental Time as part of this committee. The Commissioner

retains all final authority on staffing decisions and both parties retain their rights with respect to changes to terms and conditions of employment.

(4) Legal Mail and Transportation Security Administration Screening

a. DOCCS shall investigate and pursue a contract with a qualified vendor to provide equipment and/or services for the screening of all incarcerated individual legal mail in an effort to further curtail the introduction of drugs into correctional facilities. Such screening shall not include, in any form, the review of the communications within legal mail.

b. Representatives from NYSCOPBA shall be considered a stakeholder so as to provide meaningful feedback in committee form to DOCCS once potential vendors are established.

c. The parties will continue discussions on Transportation Security Administration screening devices.

(5) Members on Approved Leave

The parties agree to continue to resolve any outstanding issues involving members on pre-approved leave for FMLA, Workers' Compensation, Paid Parental Leave, long-term sick, bereavement, sick leave at half pay, etc., but not vacation and personal leave, who were ordered to prematurely return to work during the strike.

(6) Strike-Related Discipline and Other Actions

a. DOCCS shall not issue notices of discipline under the collective bargaining agreement for an employee who engaged in the strike so long as the employee returned to work by the deadline and in accordance with Section 12 of the MOA.

b. This does not apply to employees who engaged in criminal/illegal activity separate and distinct from the accusation of strike participation. For example, employees who engaged in vandalism or violence will be issued notices of discipline for such misconduct.

c. DOCCS will also rescind probationary terminations issued to striking employees and reinstate any employee who resigned or was deemed resigned under Article 14.10 as a result of the strike upon that employee's request when they return to work. If these individuals do not comply with section 12 at any time, they will be immediately deemed resigned. The employee shall have the opportunity to submit evidence of compliance with section 12 of this agreement within 48 hours of notice of noncompliance from the employer.

d. DOCCS will take the necessary steps to adjourn Taylor Law contempt proceedings against individual employees who return to work by the deadline and as set forth in Section 12 of this MOA. Once such individuals have returned to work, DOCCS will take the necessary steps to terminate contempt proceedings against those individuals.

e. Health Insurance - The State will reinstate, effective immediately and back to the first date of absence, the health insurance of any employee who had their health insurance terminated, so long as the employee pays the Cobra rate for such coverage for the period of termination and so long as the employee returns to work by the deadline and as set forth in Section 12 of this MOA. However, an employee does not have to elect to pay such rate if they elect not to have health insurance restored to such date. NYSCOPBA must withdraw the health insurance litigation without prejudice.

The provisions of this section do not include any Taylor Law deductions pursuant to Civil Service Law 210 for any employee who engaged in the strike.

(7) National Guard Presence in Facilities

The National Guard will remain in a support posture and begin to draw down as staff return to work. The overall support and draw down will remain under the Governor's discretion. National Guard that remain in place will be used to help prevent an employee from being mandated to work a 24-hour overtime shift.

(8) The parties confirm that the State has already rescinded the "70/30" memorandum dated February 10, 2025, as indicated in the February 20, 2025, memorandum.

(9) Continuation of 2.5 Overtime

The State will continue the 2.5 Overtime rate for all overtime worked for 30 days from the date of this MOA.

The 2.5 Overtime rate will not apply to any individual who does not return by 6:45 a.m. on March 9, 2025, if and when they subsequently return to work.

However, the State is entitled to clawback the difference between the normal overtime rate and the 2.5 overtime rate for any employee who received the 2.5 overtime rate and subsequently goes out on strike. The employee shall have the opportunity to submit evidence of compliance with section 12 of this agreement within 48 hours of notice of noncompliance from the employer.

(10) The State agrees that the Department of Civil Service will complete its analysis of the union's previously submitted reallocation request to increase the salary grade of a Correction Officer from SG-14 to SG-17 and Correction Sergeant from SG-17 to SG-20, within two (2) months from the date of this award.

The parties also agree to implement a Referral Bonus Program whereby any staff that refers a non-DOCCS employee to become a Correction Officer or Correction Officer Trainee will receive a \$1,500 Referral Bonus upon their graduation of the academy and completion of on-the-job training and a second \$1,500 Referral Bonus upon their completion of the 52-week probationary period.

(11) The parties agree to meet and discuss the definitions of assault for tracking assaults on staff.

(12) Eighty-five percent (85%) of the pre-strike fill level of employees (less those who resigned since the start of the strike) need to return to work, and continue to work, in order for the provisions of this MOA to be operational as follows: at or before 6:45 a.m. on March 10, 2025 for all employees.

(13) The parties hereby rescind their consent for the issuance of the February 25, 2025, Consent Award issued by Mediator Scheinman.

- (14) The parties agree to refer all disputes over the application and interpretation of this MOA to Jeffrey M. Selchick, the duly appointed Master Arbitrator pursuant to Article 7 of the collective bargaining agreement who shall have the full authority to hear, decide and resolve disputes regarding this MOA as part of the contractual ADR process.



Daniel F. Martuscello III
Commissioner
Department of Corrections and
Community Supervision

Dated: *MARCH 8, 2025*



Michael Volforte
Director
Office of Employee Relations

Dated: *MARCH 8, 2025*



Chris Summers
President
NYSCOPBA

Dated: *MARCH 8, 2025*