NEW YORK STATE | Office of Employee Relations

Handbook for Management/Confidential Employees

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A. INTRODUCTION

The managerial/confidential (M/C) group, as defined by the Taylor Law, includes New York State employees with a variety of backgrounds and expertise, encompassing a broad range of occupations. In this group are policy-making managers, middle managers, and specialists in fields as diverse as education, law, computer science, medicine, administrative support, and law enforcement. While the Taylor Law authorizes collective negotiations for most of New York State's public employees, it does not permit M/C employees to organize or to bargain collectively on terms and conditions of employment due to the nature of the work their positions require, as defined by that law.

M/C employees may be designated "managerial" if they (1) formulate policy, (2) assist the employer directly in preparing for or conducting collective negotiations, or (3) play a major role (involving independent judgment) in administering labor agreements. Employees may be designated "confidential" if they assist and act in a confidential capacity to employees designated managerial by virtue of (2) and (3) above.

Throughout this handbook, the term "employee" is used to refer specifically to M/C employees in the classified service of the Executive Branch of New York State government. While much of the information here applies equally to M/Cs in other categories (e.g., the unclassified service), there may be exceptions or differences, and such employees should check with their personnel office for applicability.

This handbook provides an overview of programs and benefits, as well as information on other policies and practices applicable to M/C employees. (See Appendix A, "Moving from a Bargaining Unit into the M/C Group.") It is not intended to be a comprehensive administrative manual, nor is it designed to replace individual benefit plan summaries or specific program announcements or policy memoranda. Rather, the handbook should serve as a useful guide to the benefits and programs available to you and the policies that affect you as an M/C employee. Since the handbook cannot realistically be the one source of information for all programs and policies, references are made to other sources offering more detail on specific programs. You will note that we frequently refer you to your agency or facility personnel office. This is because Personnel/Human Resources/Employee Relations is the best place to get answers to your specific questions.

B. APPOINTMENT AND PROMOTION

1. Appointment

Most management/confidential positions are in the classified service, which is composed of four "jurisdictional" classes – competitive, non-competitive, exempt, and labor. Within the classified service, most positions are in the competitive class. Competitive class positions may be filled permanently, provisionally, or temporarily.

Permanent appointments are made from eligible lists resulting from examinations, either promotion or open-competitive. Permanent appointments may also be made from preferred lists or by transfer, reinstatement, training advance, or Civil Service Commission action. Generally, preferred lists and other reemployment or pre-layoff lists

must be used before other methods of appointment. Permanent non-probationary status provides a form of tenure – protection against removal except for cause – including rights in layoff and reemployment situations, and the opportunity to compete for and transfer to other competitive positions.

Provisional appointments may be made to competitive class positions when there are no preferred list or other reemployment or pre-layoff list eligibles, or when fewer than three persons on the eligible lists are available for appointment. Provisional appointees must meet the minimum qualifications for the position. Provisional appointments are subject to termination when eligible lists are established.

Temporary appointments may also be made to competitive class positions in some instances. Temporary appointees must meet minimum qualifications. Temporary appointments may be subject to termination based on the availability of personnel on eligible and preferred lists.

Non-competitive class positions may be filled by the appointing authority with individuals who meet the minimum qualifications that are established by the Department of Civil Service. These are positions for which it is practicable to examine applicants as to their qualifications, but not practicable to conduct examinations on a competitive basis. Non-competitive appointees have some tenure, layoff, and preferred list rights, although these generally are more limited than those accorded to competitive class positions.

Appointments to non-competitive class positions specifically designated in Appendix 2 of the "Rules for the Classified Service" (Chapter 1 of Title 4 of the Official Compilation of Codes, Rules and Regulations of the State of New York) as "confidential or policy influencing" do not carry such rights.

Exempt class positions have no minimum qualifications and are positions for which neither competitive nor non-competitive examinations are found to be practicable. In practice, most exempt appointments are made by agency heads with the approval of the Governor's Office. Exempt class employees have no tenure protection unless they are veterans who meet certain criteria. They do not have layoff protection or preferred list opportunity.

Labor class positions, which involve unskilled labor, are generally filled by the appointing authority. Some employees in this class have limited tenure, layoff, and reemployment protection.

2. Probationary Period

The rules and regulations of the Department of Civil Service (Title 4 of the *Official Compilation of Codes, Rules and Regulations of the State of New York*) require a basic probationary term of 26 to 52 weeks for all competitive appointments and for original, permanent appointments in the non-competitive, exempt, and labor classes. For those promoted or transferred, probation is from 8 to 26 weeks for M/C positions in grades 13 and below, and from 12 to 52 weeks for M/C positions in grades 14 and above. The

probationary term for a trainee coincides with the term of training services, regardless of length.

If an employee is promoted and does not complete the required probationary period in the new position, they may elect to return to the title held prior to the promotion.

3. Promotion

Vacant competitive class positions are filled by promotion of employees based upon performance on competitive examinations. Non-competitive class employees do not formally compete for promotion to non-competitive positions, although certain of these positions are filled from within State service. In these instances, appointment is based upon review of the employee's qualifications and experience. Minimum qualifications established for the position must be satisfied. There are also provisions to afford non-competitive class employees the same opportunities to take promotion examinations as exist in the competitive class under certain conditions. Promotion to positions in the exempt class are effected through supervisory evaluations and selection.

4. Disciplinary Procedure

Section 75 of the Civil Service Law outlines the rights of an M/C employee involved in a disciplinary action. Under this section, an employee who is subject to a disciplinary action is entitled to representation rights and to a hearing on stated charges before an impartial hearing officer. The burden of proving employee incompetence or misconduct lies with the official or supervisor who filed the written charges.
The following categories of M/C employees are covered under Section 75:

- Employees holding permanent appointments in the competitive class.
- Eligible veterans as defined in Section 85 of the Civil Service Law.
- Exempt volunteer firefighters as defined in the General Municipal Law.
- Employees who have completed five continuous years of service in the non-competitive class since last entry into State service and who do not hold positions designated as confidential or requiring the performance of functions that influence policy.

C. COMPENSATION

1. Annual Salary

Salaries for the majority of M/C employees are determined in accordance with a statutory salary schedule, which is formulated by the Office of Employee Relations and the Division of the Budget, recommended by the Governor, and approved by the Legislature. The M/C salary schedule establishes a hiring rate and job rate (top level of regular pay for the position) for each salary grade other than M-8, which has no job rate.
Salaries for commissioners and those in other statutory (OS) positions are set by law. Generally, an employee moves from the hiring rate to the job rate over a six-year period based on satisfactory performance.

Positions in the competitive, non-competitive, and labor classes are usually assigned to statutory salary grades. Positions in the exempt class are compensated at rates that are nonstatutory (NS), or not fixed by law. The salaries of exempt class employees, however, are frequently equated to statutory grade positions with comparable responsibilities.

2. Performance Evaluation and Merit Compensation

The Performance Evaluation and Merit Compensation Program for M/C employees is a two-part program consisting of a system for evaluating employee performance and a system for payment of added compensation. The performance evaluation system provides a means for improving agency operations and employee performance through the development of a mutual understanding of performance objectives between the employee and supervisor. The system also serves to provide M/C employees with valuable feedback on their performance strengths and areas needing improvement, as well as identifying where additional training or developmental work is indicated.

Although each agency has been given the flexibility to design an appraisal mechanism suited to its particular needs, the evaluation process is subject to broad Statewide guidelines. The process requires that the employee be evaluated in writing at least annually and that the supervisor meet with the employee to discuss the evaluation. The standard evaluation period runs from April 1 through March 31.

The merit compensation system is designed to distribute specific performance advance, and longevity payments to eligible full-time and part-time annual salaried employees. An employee whose salary is below the job rate for his or her salary grade is eligible to receive a performance advance each year in the amount of one sixth of the salary range for the grade. Performance advances are generally effective after the rating period has ended unless the agency has taken steps to withhold it for performance reasons.

A performance advance raises the employee's salary until the job rate is reached. Longevity payments, which are annual lump sum payments available to employees in positions graded 17 and below or NS positions equated to a grade 17 or below whose salaries have been at or above the job rate for their salary grade for five or more years. Beginning in April of 2025 eligibility for longevity payments is calculated using years of State service.

3. Promotional Increase

An employee who is promoted into a competitive position receives either the hiring rate for the new position or a percentage increase based on basic annual salary, whichever is greater. In salary grades M/C 3 to M/C 23, the percentage increase consists of 1.5 percent plus an additional 1.5 percent for each grade advanced. Employees in salary grades M-1 to M-8 receive a 1.5 percent increase plus a three percent increase for each grade advanced.

4. Overtime Compensation
Although it is the policy of New York State to hold overtime to a minimum, employees may occasionally be required to work beyond the basic workweek. Only certain positions are eligible for overtime pay, as determined by the Division of the Budget. In general, employees eligible for overtime pay who work in excess of the 37½ hour basic workweek but not more than 40 hours are entitled to compensatory time on a straight-time basis. Overtime eligible employees who work in excess of 40 hours earn either overtime pay or compensatory time at the rate of time and one-half. Employees who choose compensatory time instead of overtime pay may accrue up to 240 hours of compensatory time for hours worked in excess of 40 per week. After employees have accrued the maximum hours, they must be compensated for all additional overtime in cash.

Employees are generally expected to travel on their own time. However, certain travel time or service while traveling may be compensable if undertaken for State business, authorized in advance, and spent as part of the employee's principal work activity (e.g., going from job site to job site). Travel between the employee's residence and official work station or any transportation terminal is not included in the calculation of overtime. Questions about eligibility for overtime compensation should be directed to the employee's personnel office.

5. Overtime Meal Allowance
An employee who works at least three hours beyond the normal daily schedule or at least six hours overtime on a day off, is eligible for reimbursement of one meal at $6.00. Any employee who is required to work at least nine hours overtime on a day off or six or more hours beyond the normal daily schedule is allowed two overtime meal allowances. Payment for these allowances is made through the payroll process; employees should contact their personnel office for details.

6. Uniform Allowance
The Office of Employee Relations provides an annual uniform cleaning and maintenance allowance to M/C employees in selected titles who are required to wear uniforms as part of their jobs. Payment is made annually by the Office of the State Comptroller to all eligible full-time, annual salaried employees and to those on leave at half pay. Employees on leave without pay receive the allowance upon return to the payroll.

7. Geographic Area Pay Differential
The Director of Classification and Compensation of the Department of Civil Service may authorize additional pay for employees in the same or related occupations to facilitate their recruitment and retention in those areas where salaries and employment practices of other employers adversely affect the ability of the State to recruit and retain a competent work force. This action is subject to approval by the Director of the Budget. The pay differential is considered an addition to, not part of, the employee's basic annual salary.

8. Shift Pay Differential
The Director of Classification and Compensation may authorize additional pay for employees who work other than normal day shifts in specific occupations, under specified conditions. The differentials are subject to approval by the Director of the Budget and are an addition to, not part of, an employee's basic annual salary.

9. Other Pay Differentials
Depending on location, job title, and requirements, an employee may be entitled to increased minimum hiring rates (based on the advanced qualifications of prospective appointees or recruitment difficulties), occupational pay (to appropriately compensate employees in relation to their immediate occupational subordinates), inconvenience pay (for employees required to work four or more hours between 6:00 p.m. and 6:00 a.m. in a regular tour of duty), location pay (for employees whose principal place of employment or official station is in the City of New York or the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, or Westchester), or hazardous duty pay (for employees exposed to hazardous working conditions in certain agencies, facilities, and locations under specified conditions for which they are not otherwise compensated). These differentials are authorized by the Director of Classification and Compensation and are subject to approval by the Director of the Budget. Occupational pay, inconvenience pay, location pay, and hazardous duty pay are considered additions to, not part of, an employee's basic annual salary.

10. Holiday Compensation
Employees who are required to work during their regularly scheduled work hours on a State holiday will receive additional compensation unless the holiday falls on their regularly scheduled day off (pass day). Employees in salary grades M/C 22 and below who work on State holidays receive, at their option, either holiday pay (straight time) or holiday leave for the time worked on those days. To receive holiday leave for holiday service, employees may file waivers of holiday pay with their agency personnel offices. Waivers may be revoked or filed annually between April 1 and May 15 or, for new employees, at the time of appointment. Employees in grades M/C 23 and above do not have this option. They are ineligible for holiday pay, but instead receive holiday leave corresponding to the number of hours worked on the holiday. Geographic, occupational, location, inconvenience, and shift pay are part of the holiday pay computation where appropriate.

When a holiday falls on a regularly scheduled day off, employees are entitled to holiday leave unless the State designated another day off in its place. Employees who are eligible for overtime and who are scheduled or directed to work on a holiday that falls on a regular day off may receive overtime compensation in addition to holiday pay or holiday leave. Employees who are ineligible for overtime receive only the applicable holiday leave or holiday pay for working on a holiday that falls on a regular day off.

An employee who has not been scheduled to work, but is called in to work during his or her regularly scheduled hours of work on a State holiday that is a day other than the employee's regular day off, is guaranteed at least one-half day's holiday pay or holiday

leave, as appropriate, regardless of the actual number of hours worked. If the employee works more than one-half day, compensation equals the number of hours worked.

11. Unemployment Insurance

State employees are covered by the provisions of New York State Unemployment Insurance Law. Employees who cease working for New York State through no fault of their own may be eligible to receive weekly cash benefits while they look for new jobs. More information is available from agency personnel offices or local unemployment insurance offices.

D. REIMBURSEMENTS

1. Travel Reimbursement

M/C employees whose duties require them to be in travel status will be reimbursed according to guidelines established by the Office of the State Comptroller. (See Office of the State Comptroller *Travel Manual*, available at https://osc.state.ny.us/agencies/travel/manual.pdf)

Employees should contact their agency personnel or finance offices for further information on travel reimbursement and for specific reimbursement rate schedules.

2. Moving Expense Reimbursement

An employee who is promoted, transferred, or reassigned for the convenience of the State, or a new employee recruited by the State for a position in which it has been determined that a shortage of qualified candidates exists, may be reimbursed for individual and family basic moving expenses up to an established maximum (Under Section 202 of the State Finance Law and regulation thereunder). An employee is not eligible, however, for related expenses such as selling or buying a house or renting temporary quarters. Reimbursement shall not be granted if the distance between the employee's old and new place of employment, or between the new place of employment and place of residence at the time of employment, is less than 35 miles. Employees will also be ineligible for reimbursement if the transfer or reassignment is the result of demotion, is for educational or training purposes, or is at the request of the employee and not expressly for the convenience of the State.

Reimbursement is made according to regulations issued by the Division of the Budget as Part 154 of Title 9 of the *Official Compilation of Codes, Rules and Regulations of the State of New York.*

E. ATTENDANCE AND LEAVE BENEFITS

Attendance and leave policies for M/C employees are specified in the "Attendance Rules for Employees in New York State Departments and Institutions" (Parts 27 through 33 of Title 4 of the Official Compilation of Codes, Rules and Regulations of the State of New York) and the accompanying manual to these rules, as administered by the Department of Civil Service. The following paragraphs are brief synopses of the detailed rules and

regulations. Please note that these discussions apply only to full-time, annual salaried employees in the classified State service.

1. Basic Workweek
The basic workweek for full-time annual salaried employees is 40 hours or an approved equivalent work schedule. Alternative work schedules, including staggered hours, flextime, and compressed schedules, are available in a number of agencies. A 1978 executive order (Executive Order No. 68) encourages agencies to consider implementation of such schedules. An appointing authority may reduce the basic workweek, with approval of the Division of the Budget, to 37 ½ hours. This does not preclude an employee from being directed to work additional hours, whether or not eligible for overtime pay.

2. Holidays
The official holidays for New York State employees are:

New Year's Day	Labor Day
Dr. Martin Luther King, Jr. Day	Columbus Day
Lincoln's Birthday	Election Day
Washington's Birthday	Veterans' Day
Memorial Day	Thanksgiving Day
Juneteenth	Christmas Day
Independence Day	

Each fiscal year, the State can designate up to two of these days as floating holidays. State offices remain open on such floating holidays and employees who are eligible to observe holidays will, on each of these dates, receive credit for one day of holiday leave. In recent years, Lincoln's Birthday and Election Day have been so designated.

3. Vacation

• During the First Through Seventh Years of Service
A new full-time, annual-salaried employee is credited with 6 ½ days of vacation after 13 biweekly pay periods with no break in service of more than one year. After that, the employee accumulates vacation at the rate of one-half day per pay period during each year of service through the first seven years. An M/C employee earns bonus vacation days on his or her vacation anniversary date. The number of bonus days earned equals the employee's completed years of continuous service.

• More Than Seven Years of Service
Following completion of seven years of service, an M/C employee earns 20 days of vacation for each 26 pay periods. Employees with 20 or more years of continuous service earn additional vacation credits upon completion of each additional 12 months of service, as follows:

Completed Years	Additional Vacation Days
20 - 24	1
25 - 29	2
30 - 34	4
35 or more	5

Leave of Absence/Resignation
A leave of absence without pay or resignation followed by reinstatement or reemployment in State service within one year does not constitute an interruption of continuous State service for the purpose of determining vacation credits. Unpaid leave for more than six months, however, will not be counted in determining eligibility for additional vacation credits.

Accrued Vacation Payment
In the event of death, retirement, separation from service, or movement to an unclassified position, an employee (or the employee's estate) is paid in cash for up to 30 days of accrued vacation. Employees who leave State service as a result of disciplinary action or resign following disciplinary charges are not eligible for payment. Agencies may require that employees who voluntarily resign provide two weeks notice prior to the last day of work to be eligible for this payment.

Credit Accumulation
On January 1st of each calendar year, an employee's accrued vacation may not exceed 40 days, although total vacation accruals may exceed this limit at other times during the year. An employee who accumulates more than 40 days of vacation credits in a calendar year must use the amount over 40 days or lose it on the last day of the calendar year.

4. Sick Leave

Earning and Accrual
Sick leave is earned and accumulated by two different methods for M/C employees — one method for employees who are enrolled in the M/C Income Protection Plan (IPP), and another method for those not enrolled in the IPP. (See the Disability Coverage section of this handbook for a discussion of disability benefits under the IPP.)

For Non-IPP Participants:
Employees not enrolled in the M/C Income Protection Plan earn sick leave at the rate of one-half day each biweekly pay period for a total of 13 days per year. Sick leave may be accumulated to a maximum of 225 days. Employees who do not have enough credits to cover an absence due to illness may be advanced up to five days of sick leave (extended sick leave) for personal illness. These days must be repaid as soon as possible following a return to work. Permanent non-probationary employees who have at least one year of State service are eligible for sick leave at half pay after exhausting all leave credits. For each completed six months of State service, the employee may be eligible for one biweekly payroll check at half pay.

For IPP Participants:
Employees enrolled in the M/C Income Protection Plan are credited with four days of sick leave each six months for a total of eight days per year. Sick leave may be accumulated to a maximum of 225 days. IPP participants are not eligible for sick leave at half pay or extended sick leave since insured short-term and long-term income protection is provided through the IPP.

Use of Sick Leave
An employee may use sick leave for personal illness and visits to a doctor or dentist or other recognized medical practitioner. Additionally, up to 30 days per year may be used for illness or death in the family. Agencies may require satisfactory medical documentation before approving a charge against sick leave.

There is no provision for cash payment for unused sick leave upon separation from State service. However, an employee who retires directly from State service may use up to 200 days of unused sick leave for retirement service credit on a day-to-day basis and up to 200 days to offset the cost of health insurance in retirement. For the latter, the value of unused sick leave is converted to a monthly credit, which is applied toward paying any contribution the employee makes for health insurance for the rest of his or her life.

Disability Terminations
Pursuant to Section 73 of the Civil Service Law, agencies are authorized to terminate disabled employees after one year of continuous absence, regardless of remaining leave accruals or eligibility for sick leave at half pay. For non-IPP participants, there is no guarantee that any leave benefits will be payable beyond one year. Under the IPP, employees receiving long-term disability benefits can still be terminated after one year of continuous absence, but long-term disability benefits continue to be payable as long as the disability continues.

5. Leave Donation Program
M/C employees may participate in the Leave Donation Program. This program permits the voluntary donation and receipt of accrued vacation credits for use as sick leave by other employees who, because of long-term personal illness, have exhausted their leave

accruals. Donations across agency lines by the donor employee are permitted. Eligibility requirements to participate are available from agency personnel offices.

6. Leave for Pregnancy, Childbirth, Child Care, and Adoption

Pregnancy and childbirth are treated in the same manner as any other disability and in accordance with the above sick leave provisions. An employee, male or female, must be granted, upon request, a leave of absence without pay for child care purposes for up to seven months following delivery. Leave beyond this period may be granted at the discretion of the appointing authority. In cases of adoption, unpaid child care leave for either parent will be granted for a total of up to seven months. Absences for child care and adoption purposes may be charged to vacation, overtime compensatory time, or personal leave credits. However, use of leave credits does not extend the seven-month period. (See Appendix B for details.) There are other child care benefits noted below that may be used up to, and in some situations, beyond the seven months.

7. Paid Family Leave

Paid Family Leave benefits are available as of January 1, 2018 for Management/Confidential (M/C)-designated employees in bargaining units 06, 18, 46, and 66.

- **Full-time employees**: Employees who work a regular schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment.
- **Part-Time employees:** Employees who work a regular scheduled of less than 20 hours per weeks are eligible after working 175 days, which do not need to be consecutive.

Employees are eligible regardless of citizenship and/or immigration status.
New York's Paid Family Leave provides job-protected, paid time off so you can:

- Bond with a newly born, adopted or fostered child,
- Care for a family member with a serious health condition, or
- Assist loved ones when a spouse, domestic partner, child or parent is deployed abroad on active military service.

Paid Family Leave for Child Bonding purposes can be used for up to one year from the date of the child's birth or placement.

More information on these qualifying events and how Paid Family Leave applies to your time and attendance can be found at https://cs.ny.gov/attendance_leave/pb17-02.pdf.

You can continue your health insurance while on leave and are guaranteed the same or comparable job after your leave ends. If you contribute to the cost of your health insurance, you must continue to pay your portion of the cost while on Paid Family Leave.

8. Paid Parental Leave

Paid Parental Leave benefits are available as of February 14, 2023, and provides 12 weeks of paid leave for unrepresented executive branch State employees to bond with a newly born, adopted, or fostered child.
All unrepresented executive branch employees who work full-time or who work at least 50% part-time are eligible for this benefit. Such employees are eligible beginning on their first day of service. Employees are not required to have Attendance Rules coverage to be granted this benefit.

Paid Parental Leave is available to any gestational, non-gestational, adoptive, or foster parent who meets certain eligibility criteria for unrepresented executive branch employees. All other child care leave benefits, including sick leave accruals, family sick leave benefits, Family Medical Leave Act (FMLA), Income Protection Plan (IPP), and Paid Family Leave (PFL), remain unchanged and available for use when applicable.

Employees may take leave with pay for up to 12 weeks for each qualifying event, defined as the birth of a child or placement of a child for adoption or foster care. Paid Parental Leave is available for use once every 12-month period. A qualifying event begins the 12-month period. Paid Parental Leave may begin on the date of birth, the day of adoption or foster care placement or anytime thereafter within seven months. An employee's ability to use Paid Parental Leave ends seven months from the date of the qualifying event. If a qualifying event occurred within seven months before February 14, 2023, an employee may use Paid Parental Leave, however the employee's use of Paid Parental Leave must end within seven months of the qualifying event.

Paid Parental Leave may be used in combination with all other paid and unpaid childcare leave benefits. Paid Family Leave, Income Protection Plan, and usage of accruals cannot run concurrently with Paid Parental Leave and may be taken at the appropriate time in addition to Paid Parental Leave.

If both parents are employed by a New York State Agency, both parents may use Paid Parental Leave, even if they work for the same appointing authority.

Paid Parental Leave cannot be used intermittently and must be taken in a block of time. Employees do not have to take the full 12 weeks, but once they return from Paid Parental Leave, they can no longer use this leave.

Status of Employees on Paid Parental Leave

For attendance and leave purposes, employees are deemed to be in leave without pay status while using Paid Parental Leave. They do not earn biweekly leave accruals or observe holidays, nor do they receive personal leave or vacation bonus days if their anniversary dates fall while they are using Paid Parental Leave. In such cases, the personal leave anniversary date changes to the date of return to work or placement on sick leave at half-pay, and the employee receives personal leave on the adjusted anniversary date. The vacation anniversary date is adjusted if the period of continuous absence on Paid Parental Leave and any other kind of childcare leave, except where the

employee charges accruals on such leave, exceeds six continuous months. If such period is less than six months, the employee retains the same vacation anniversary date and is credited with vacation bonus days upon return to work.

Voluntary Reduction in Work Schedule (VRWS) agreements must be suspended on the first day of the payroll period in which an employee begins their Paid Parental Leave.

Time on Paid Parental Leave does not count as service for earning additional eligibility for sick leave at half-pay.

While using Paid Parental Leave, employees continue to be covered by their existing insurance benefits. Employees continue to have health insurance premiums, retirement contributions, and other payroll deductions withheld from their paycheck.

Employees using Paid Parental Leave continue to receive retirement service credit for days in while on leave as it is considered full pay status for this purpose.

Paid Parental Leave may not be used to extend employment beyond the point it would otherwise end by operation of law, rule, or regulation.

9. Federal Family and Medical Leave Act (FMLA)

The Family and Medical Leave Act of 1993 requires the granting of leave to employees for serious family or personal illness or in connection with the birth or placement of a child for adoption or foster care. Employees are eligible for coverage if they have been employed by New York State for at least twelve cumulative months or 52 cumulative weeks, and have performed a minimum of 1250 hours of service during the 12 months immediately preceding the date the leave is requested to begin. FMLA leave is unpaid leave. However, an M/C employee may elect to charge appropriate leave credits pursuant to provisions of the Attendance Rules. Eligible employees may take leave for up to 12 workweeks in a calendar year for the following reasons:

1. The birth of the employee's child and to care for the child.
2. The placement of a child with the employee for adoption or foster care.
3. To care for a spouse, child, or parent who has a serious health condition.
4. A serious health condition that renders the employee incapable of performing the functions of their position.

Employees are entitled to continuation of health and certain other insurances during any period of FMLA leave.

For further information on the FMLA, to determine whether eligibility requirements are met, or to obtain an application for family and medical leave, employees should contact their personnel office.

10. Personal Leave
An employee is credited upon appointment to State service, and each year thereafter on the anniversary of such appointment, with five days of personal leave. It may be used for such activities as the conduct of personal business or religious holiday observance, and may also be used as vacation. Personal leave not used within a year is forfeited.

11. Workers' Compensation Leave
It is essential that an employee report any job-related accident immediately to his or her supervisor and/or to the personnel office. Failure to do so could result in loss of benefits available to the employee for absence due to an occupational injury.

Employees who sustain job-related injuries may be eligible for benefits under the New York State Workers' Compensation Law as described in the Disability Coverage section of this handbook. In addition, depending on the date of injury, employees may qualify for benefits provided by New York State as an employer.

Workers' Compensation benefits for accidents or injuries that occurred prior to September 1, 1994 are determined based on the date of injury. For accidents and injuries that occurred on or after September 1, 1994, employees are entitled to use their accrued leave credits from the first day of disability. Subsequently, benefits under the Income Protection Plan or sick leave at half pay or leave without pay may be available as appropriate. The accrued leave credits used will be restored to the employee if the Workers' Compensation Board determines that the period of disability is covered by the Workers' Compensation Law. Any restoration of accruals will be prorated to reflect the wage award issued by the Workers' Compensation Board.

Section 71 of Civil Service Law entitles employees who have suffered a work-related injury or illness to a leave of absence for a cumulative period of one year. For injuries that were sustained as a result of an assault, a leave of absence for up to 24 months is provided.

A detailed explanation of the rights and responsibilities of employees wishing to avail themselves of these benefits is available from agency personnel offices.

12. Other Leaves
Employees are also eligible for leaves for a variety of other purposes, including Civil Service examinations, jury duty, civil defense duty, ordered military duty, cancer screening, bone marrow and organ donation, and professional examinations and meetings.

With respect to attendance at professional examinations, meetings, conferences or seminars, M/C employees may be allowed time off from work without charge to leave credits at the discretion of the appointing authority. This policy neither limits nor guarantees the amount of time that may be approved for such purposes.

13. Voluntary Reduction in Work Schedule

The Voluntary Reduction in Work Schedule (VRWS) program permits employees to trade a percentage of income for an equivalent amount of time off. Employees may reduce their work schedules and salaries from a minimum of five percent up to a maximum of 30 percent, with agency approval. Participating employees suffer no reduction in benefits for health insurance, dental insurance, vision care, the Income Protection Plan, or survivors' benefits, although leave accruals are prorated. For the purposes of general salary increases and performance advances, the employee's basic annual salary is treated as though it had not been reduced.

14. Leave Benefits for Part-Time Employees

Depending upon work schedule and pay basis, employees who work part-time may be eligible for some of the attendance and leave benefits described above. Specific information is available from agency personnel offices.

F. EDUCATION AND TRAINING

1. Management Training and Development Programs

The Office of Employee Relations (OER) designs training for supervisors and managers across New York State government. OER also provides consulting and facilitation services to assist agencies with planning and organizational change. For more information please contact the Workforce and Organizational Development Unit at wodu@oer.ny.gov or at (518) 474-6772.

2. Tuition Reimbursement

OER provides tuition reimbursement to M/C designated employees. For more information visit the OER website for M/C Tuition Reimbursement.

G. QUALITY OF WORK LIFE PROGRAMS

1. Worksite Child Care Centers

New York State was the first state to establish a network of child care centers for public employees. More than twenty centers, hosted by agencies around the State, serve children from eight weeks to five years of age. Many centers also offer summer camp programs for school-age children. Enrollment priority is given to children of State employees. This cooperative, joint labor/management project is funded by the Office of Employee Relations on behalf of M/C employees. Funding is also provided by the Civil Service Employees Association (CSEA), Public Employees Federation (PEF), Council 82-AFSCME, United University Professions (UUP), District Council 37(DC-37), Graduate Student Employees Union (GSEU), and the NYS Correctional Officers and Police Benevolent Association (NYSCOPBA).

For further information including a listing of the worksite child care centers contact Work-Life Services at (518) 473-8091, or send email to worklife@oer.ny.gov.

2. Dependent Care Advantage Account

The Dependent Care Advantage Account (DCAAccount) is a flexible spending account benefit that allows employees to pay for eligible dependent care expenses with pre-tax dollars. Eligible expenses include care for individuals who live in your household at least 8 hours a day. For example, daycare, before/after school programs, pre-school programs, summer day camps and for elder care expenses or expenses related to non-medical care for a disabled dependent.

This pre-tax reimbursement benefit offered under the Flex Spending Account (FSA) program enables employees to save significantly on their dependent care expenses, and the State may contribute up to $1000 toward an employee's DCAAccount when they enroll, depending on their income. For a complete list of State contributions visit the Flexible Spending Account website at https://oer.ny.gov/fsa.

The enrollment period occurs every fall, but employees with an eligible change in status may enroll throughout the plan year. For a complete list of eligibility guidelines, and eligible expenses visit the Flexible Spending Account website at https://oer.ny.gov/fsa. Questions may be sent to fsa@oer.ny.gov or call 1-800-358-7202.

3. NYS-Ride

NYS-Ride (pronounced NICE Ride) is a pre-tax benefit that helps you save money on public transportation costs and contributes to a greener environment. With the NYS-Ride benefit you can also enjoy pre-tax savings on qualified parking expenses. This program is sponsored by OER and administered by Edenred Benefit Solutions (Edenred).

You can use your commuter benefit to pay for a variety of public transit costs with pre-tax dollars. It's like a discount on your eligible commuter expenses. When you enroll, simply choose your fare and agree to payroll deductions. Your order will be sent directly to you.

You can enroll in NYS-Ride at any time. Orders, changes, or cancellations must be made by 11:59 p.m. EST by the first of the month, two months before the benefit month. For example, if you want to change or cancel your order for the July commuting month, you must do so by May 1.

To learn more about NYS-Ride visit https://oer.ny.gov/nys-ride or call Edenred Customer Service at (888) 235-9223.

4. Retirement Planning Information

On behalf of M/C employees, OER partially underwrites pre-retirement planning seminars for executive branch State employees. The seminars are offered regularly at various locations across the State and are designed for employees who are retirement-eligible or within five years of retirement eligibility. For more information on seminar schedules, contact your agency liaison to learn how to enroll. For a list of agency liaisons, visit the website at https://oer.ny.gov/directions-pre-retirement-seminar-contact-information.

A comprehensive pre-retirement guide has also been developed and is available to assist employees with the many aspects of retirement planning. For a printable version of the comprehensive Self-Help Guide to Pre-Retirement Planning, 23 short videos, a retirement checklist, monthly pre-retirement planning tips and helpful links visit https://oer.ny.gov/pre-retirement-planning-information.

5. Employee Assistance Program

The Employee Assistance Program (EAP) is a free, voluntary, and confidential assessment and referral service designed to help employees and their families resolve work-related and personal problems. Some of the issues EAP can help with include financial, legal, personal and work relationships, alcohol and drugs, stress, conflict and anger, gambling, retirement, eldercare, parenting and child care, grief, depression or other mental health, illness and disability, domestic violence, life changes, and work and life balance.

When you contact EAP, a specially trained EAP coordinator will offer to meet with you in-person, or by phone, to assess your needs and, when additional help is needed, to refer you to an array of resources in your community and online. Your EAP coordinator understands the nature of public service and the unique culture of your agency and has an in-depth knowledge of local community resources as well as the state's health benefit plans and other benefits.

Everyone has problems from time to time. For help 24/7, call 800-822-0244 or visit the website at https://oer.ny.gov/eap.

H. HEALTH, DENTAL AND VISION BENEFITS

1. Health Insurance

New York State offers two group health insurance options for its employees: enrollment in the Empire Plan or enrollment in a Health Maintenance Organization (HMO). While representing different approaches to health insurance protection, they both provide a full range of benefits and the opportunity to limit out-of-pocket expenses.

Costs

New York State helps pay for your health insurance coverage. After the State's contribution, you are responsible for paying the balance of your premium through biweekly deductions from your paycheck. For Empire Plan and HMO enrollees in the titles allocated or equated to Salary Grade 9 and below, the State will pay 88 percent of the cost of the premium for enrollee coverage and 73 percent of the additional cost for dependent coverage. For Empire Plan and HMO enrollees in titles allocated or equated to Salary Grade 10 and above, the State will pay 84 percent of the cost of the premium for enrollee coverage and 69 percent of the additional cost for dependent coverage.
If you are enrolled in an HMO, the State's maximum contribution toward the cost of your premium will be 100 percent of its dollar contribution to the hospital/medical/mental health and substance abuse components of the Empire Plan premium.

Employees may pay their share of the health insurance premium on a pre-tax basis.

Changes in Enrollment Status
If an employee wishes to change health insurance coverage as a result of a birth, death, or other change in family status, they must submit an application for change to the agency health benefits administrator in the personnel office.

Change of Plan Option
An employee may apply for a change of health insurance plan during the annual option transfer period, traditionally held in the fall.

Leave Without Pay
If an employee takes leave without pay or is otherwise temporarily removed from the payroll, they may pick up the full cost of the health insurance program and thereby continue coverage while off the payroll. Should such leave without pay occur as part of an authorized leave under FMLA, they may be entitled to continue coverage by paying the employee share. Arrangements for continued coverage must be made in advance through the personnel office.

Layoff
In the event of layoff, an employee may be eligible to purchase continued health insurance coverage for up to one year by paying the employee share of coverage cost.

Continuation of Coverage under COBRA
The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 requires the State to provide for continuation of health insurance coverage for up to 18 months for employees who lose coverage due to voluntary or involuntary termination (other than for gross misconduct) or reduction in work hours. An employee's spouse or dependents are eligible for continuation of coverage for up to 36 months upon the employee's death, entitlement to Medicare, or following a divorce or legal separation, or when dependent children reach the maximum age for coverage under the plan. More information about continuation of coverage can be obtained from agency personnel offices.

Waiver of Premium
If an employee covered by the State's health insurance program (the Empire Plan or certain HMOs) is totally disabled and is on authorized leave without pay, unpaid Family and Medical Leave, or on a preferred list for reinstatement, the requirement that they pay a premium may be waived for a period of up to one year. Additional information is available from agency personnel offices.

Retirement Coverage
Covered employees may be eligible to continue health insurance coverage in retirement if, at retirement, they have completed at least ten years of State service in a benefits eligible position.

Benefits
Specific information and publications covering health plan benefits are available on the Department of Civil Service's website at https://cs.ny.gov/ebd.

2. Prescription Drug Benefits
M/C employees who are enrolled in the Empire Plan are eligible for prescription drug benefits under the New York State Prescription Drug Plan. Enrolled employees, retirees, and their eligible dependents may obtain prescription drugs at a community pharmacy or through the plan's mail service pharmacy. Eligibility for dependent children will continue up to age 26 regardless of marital or student status.

To receive prescription drugs at a participating pharmacy, the enrollee must present their New York Government Employee Benefit Card and prescription and pay a copayment (see plan booklet for details). When a non-participating pharmacy is used, enrollees must pay the pharmacy the full cost of the prescription and submit a completed reimbursement form. Forms are available at agency personnel offices. Up to a 90-day supply of medication may be obtained, with refills for up to one year.

Employees who are enrolled in HMOs are not covered by this plan but are covered for prescription drug benefits according to the provisions of their particular plans. Details on coverage for those employees are available from individual HMOs.

3. Dental Insurance
New York State provides M/C employees with a group dental insurance plan, currently administered by Anthem. The entire cost of the premium is paid by the State. After a 28-day waiting period, the employee and dependents are covered. The plan covers a broad range of dental work. If an employee chooses to use a participating dentist, all covered services are paid by the plan after a $25 deductible for individuals, or $75 deductible for families. If the employee chooses to use a non-participating dentist, reimbursement is made in accordance with an indemnity fee schedule. Detailed information, including the fee schedule, is contained in materials available from agency personnel offices. Also, you may want to review the plan details at https://www.cs.ny.gov/employee-benefits/nyship/group/1/5/3/dental/index.cfm.

4. Vision Care
Annual salaried employees who work at least half-time and their dependents are eligible for vision care coverage under the M/C Vision Care Plan. If an employee chooses to use a participating provider for vision care needs, the Plan covers the entire cost of an examination and an allowance toward eyeglasses (selected from among a large variety of frames available under the Plan). Daily wear contact lenses are also covered, but require a co-payment. If the employee chooses a non-participating provider, they must pay the provider and reimbursement will be made directly to the employee according to a fixed schedule. An occupational vision care benefit covers the cost of an additional pair of eyeglasses for employees determined to have occupation-related vision problems and who require special eyeglasses for work; however, this benefit must be used in conjunction with a regular examination provided by a participating optometrist.

Vision care benefits are available to each covered employee or dependent once in any 24-month period. When employees or covered dependents require vision care services, they should call the participating provider of their choice and advise the provider that they are covered under the New York State Vision Care Plan. The provider is responsible for obtaining authorization from the Plan before providing services. Employees who choose to use a non-participating provider must contact the Plan to obtain a claim form. For more detailed information, visit the website or call the Vision Care Plan at the number listed in the Directory in Section N.

5. Health Care Spending Account

The Health Care Spending Account is a benefit offered under the Flex Spending Account that allows employees to pay for medically necessary health care expenses with pre-tax dollars. This includes medical, hospital, laboratory, prescription drug, dental, vision, and hearing expenses that are not reimbursed by insurance or other benefit plans. The enrollment period occurs every fall, but employees who experience eligible changes in status may enroll throughout the plan year. Call 1-800-358-7202 for enrollment materials and more information, or visit the Flex Spending Account website at https://oer.ny.gov/fsa. Also, Questions may be emailed to fsa@oer.ny.gov.

I. RETIREMENT COVERAGE

1. Employees' Retirement System

The New York State and Local Employees' Retirement System (ERS) is organized in tiers. Tiers are assigned to employees based on the date they first join the retirement system and determine what retirement benefits an employee is eligible for. For more information go to https://osc.state.ny.us/retire.

You Are In:	If You Joined:
Tier 1	Before July 1, 1973
Tier 2	July 1, 1973 through July 26, 1976
Tier 3	July 27, 1976 through August 31, 1983
Tier 4	September 1, 1983 through December 31, 2009
Tier 5	January 1, 2010 through March 31, 2012
Tier 6	April 1, 2012 or after

If you started employment with New York State before January 2, 2010, and would like specific information regarding your retirement benefits, contact your personnel office or the ERS for assistance in determining your membership tier and benefit package.

The descriptions of the above tiers are necessarily brief and do not reflect all possible retirement benefit options available to members in those tiers. Retirement benefits and the formulas for their calculation vary by tier and are based on final average salary and years of service. Detailed information on retirement benefits is provided in booklets on each tier, which are available from the New York State and Local Employees' Retirement System or on their website at https://osc.state.ny.us/retire.

2. Crediting Other Service

If you move from one state agency to another, or to any public employer participating in the ERS, without a break in service, you will maintain continuous membership. Remember to notify your new employer that you are a member, and give your membership number. If you return to state service after leaving for a time and did not withdraw your contributions when you left previously, you may still be considered a member of the System and can continue to earn service credit. If you withdrew your contributions, you must rejoin the ERS as a new member. Reinstatement of your original membership date and credit for service requires application to the ERS and repayment of the monies previously withdrawn. If you have other service as a member of another public retirement system in New York State, contact the ERS for more information.

3. Deferred Compensation Plan

The New York State Deferred Compensation Plan is a voluntary savings program that allows employees to save for retirement on a tax deferred basis. This program enables employees to defer (contribute through payroll deduction) a portion of their annual salary, not to exceed the current maximum ($22,500 in 2023) or even more through catch up provisions. Employees do not pay federal, state, or city income taxes on pre-tax contributions or accumulated earnings until the funds are distributed, generally at retirement when most people are in lower tax brackets. Roth contributions are also available.

Investment options include target retirement date funds, a stable value fund, and a variety of stock and bond mutual funds and collective trusts. Additional information is available from the Plan's website at https://nysdcp.com or from the Plan's Helpline. (See Directory, Section N)

J. DISABILITY COVERAGE

1. M/C Income Protection Plan

Eligible M/C employees who have creditable State service prior to January 1, 1986 and are appointed to an M/C position on or after that date have 30 days from the date of appointment to elect disability coverage under the M/C Income Protection Plan (IPP) or to participate fully in the State's sick leave accrual program. Eligible M/C employees who do not have creditable State service prior to January 1, 1986, and are appointed to an M/C position on or after that date are automatically covered by the IPP. M/C employees who selected a disability coverage option (either the IPP or full sick-leave benefits)

during the open enrollment period in 1985 and employees who select an option subsequent to that period are covered by that option as long as they are in eligible M/C status. The selection is one-time only and may not be changed at a later date.

The M/C Income Protection Plan consists of short- and long-term disability insurance, which, in combination with sick leave benefits, provides partial income continuation in the event an employee becomes unable to work due to personal illness or injury.

If an employee becomes unable to work due to illness or injury, they must exhaust all sick leave credits before becoming eligible to receive either short term disability (STD) or long term disability (LTD) benefits. However, if your accrued sick leave is not enough to cover the first 14 calendar days of your absence, you may use other leave credits (vacation, personal leave, holiday leave, overtime compensatory time or VRWS credits) or go on leave without pay for the balance of the 14 days. In no event will STD benefits be paid before 14 consecutive calendar days have passed.

After exhausting your sick leave, you may choose which, and how many leave credits you want to use prior to placement on STD. STD then provides 50 percent of base salary up to $961.54 per week for up to six months from the onset of disability. After six months of disability, LTD benefits are payable at 60 percent of base salary up to $5,000 per month until the disability ceases, but not beyond age 65 or death. Metropolitan Life Insurance Company currently underwrites both the STD and LTD plans.

Additional information is available from personnel offices, the Employee Benefits Division of the Department of Civil Service, or the Office of Employee Relations. (See Directory, Section N) Disability coverage is also addressed in the discussion of sick leave in the Attendance and Leave section of this handbook.

2. Disability Retirement Benefit

The New York State Employees' Retirement System (ERS) provides a disability retirement benefit for employees who become physically or mentally unable to perform their duties as a result of an accident or some other cause. The benefit is based on the type of disability the employee incurs and the tier of the Employees' Retirement System of which the employee is a member. These benefits are pensions that are provided to employees who are not yet eligible for normal retirement benefits. Additional information is available from the Employees' Retirement System. (See Directory, Section N)

3. Ordinary Disability Benefit

An employee who is a member of the Employees' Retirement System and has at least ten years of service may be eligible for an ordinary disability retirement benefit if it has been determined that the employee is disabled and should begin retirement. The employee (or an authorized representative) must apply for the benefit within 90 days of leaving the payroll or the conclusion of a medical leave of absence. The employee may also be eligible for Workers' Compensation benefits. Tier 3 members may be eligible for a retirement benefit after only five years of service; however, benefits under this

provision are reduced by a percentage of Social Security benefits and any payable Workers' Compensation benefits.

4. Accidental Disability Benefit
In the case of disability resulting from an on-the-job accident, an employee who is a member of the Employees' Retirement System may receive a disability pension regardless of length of service if the disabling accident is not a result of the employee's negligence. The employee must file timely written notice of the accident with the New York State Comptroller or with the employing agency. (Notice to the Workers' Compensation Board fulfills this requirement.) In Tiers 1 and 2 and for certain provisions under Tier 3, any accidental disability benefits received through Workers' Compensation are deducted from the ERS disability benefit.

5. Social Security Disability Benefits
An employee may be eligible for monthly Social Security disability benefits if it is determined that they are, or is expected to be, mentally or physically disabled for a minimum of 12 months and has worked long enough and recently enough under Social Security to be fully insured. The amount of this benefit may be affected by other government payments and disability benefits. For additional information, call any Social Security office or contact the New York State Employee's Retirement System.

6. Workers' Compensation Benefits
Workers' Compensation is insurance, paid by New York State as an employer, that provides wage replacement benefits and medical care for employees who become disabled due to a work-related injury or illness. Employees are covered for all costs associated with necessary medical care as is required by the nature of their injury or the process of recovery. Employees may also be eligible for wage replacement benefits. For injuries sustained prior to July 1, 2010, wage replacement benefits will be equal to two-thirds of the employee's average weekly wage up to an established maximum. Wage replacement benefits for injuries sustained on or after July 1, 2010 will be up to two-thirds of the State Average Weekly Wage. No wage replacement benefits are paid for the first seven days of disability unless the disability extends beyond 14 days. In that event, the employee may be due wage replacement benefits retroactive to the first day off the job of injury. However, necessary medical care is provided for as long as the disability exists. The Attendance and Leave section of this handbook contains more information on Workers' Compensation Leave benefits.

It is essential that an employee report any job-related accident immediately to his or her supervisor and to the personnel office, where forms are available to apply for Workers' Compensation benefits.

K. DEATH BENEFITS
If an employee dies while in State service, beneficiaries may receive death benefit payments from the Employees' Retirement System, the Social Security Administration, the Workers' Compensation Board and the M/C Survivors' Benefit Program. Detailed

information is available from the Employees' Retirement System and agency personnel offices.

1. Employees' Retirement System Benefits
The Employees' Retirement System provides its members' beneficiaries with death benefits, the amount and type of which vary according to several factors, including cause of death, age, years of service, and tier membership. When death results from an accident occurring on the job (provided the accident did not result from the employee's negligence), a pension equal to one-half the employee's final average salary (or in some cases, the salary during the last year of active service) is paid to the spouse or certain other eligible beneficiaries as prescribed by law. No minimum period of service is required for eligibility. The benefit may be reduced by the amount of any Workers' Compensation benefit paid.

In the case of an employee whose death is not caused by a job-related accident, the Retirement System pays a lump sum to designated beneficiaries based on the employee's age, years of service, tier membership, and other factors. The first $50,000 of the Ordinary Death Benefit is paid in the form of group life insurance and, as such, is exempt from federal income tax. Formulas for computing the amount of death benefits are detailed in booklets on each retirement tier, available from the Retirement System.

Each employee files a designation of beneficiary upon joining the Retirement System. However, changing life circumstances may call for changes in the designation of a beneficiary. Members may check or change their beneficiary designations by writing to the Employees' Retirement System.

2. Social Security Survivors' Benefits
The family of a deceased employee who is insured by Social Security may be eligible for monthly survivors benefits and an additional one-time lump-sum death payment. The amount of the monthly benefit is a percentage of the monthly amount the deceased worker would have received from Social Security had they lived to retire at age 65. Other factors also determine the amount payable to survivors, such as the number and age of dependents, and whether any dependent has a disability. As with all Social Security benefits, there is a limit (maximum family benefit) on the total amount of benefits that all members of one family may receive based on the earnings record of one worker. The survivor's own work earnings may also affect the amount received from Social Security. Contact any Social Security office for more detailed information.

3. Workers' Compensation Benefits
New York State employees are covered by Workers' Compensation insurance, which provides cash benefits and medical care for employees who become disabled because of job-related injuries or illnesses. If the employee dies from a compensable job-related injury or illness, the surviving spouse and dependents as defined by law are entitled to weekly cash benefits (subject to possible Social Security offsets). The amount is figured as two-thirds of the deceased employee's average weekly wage for the year before the compensable incident up to an established weekly maximum, regardless of how many

dependents are involved. Funeral expenses are payable up to $6,000 in New York City and Rockland, Westchester, Nassau and Suffolk Counties. In all other counties the amount is $5,000.

4. M/C Survivors' Benefit Program

Beneficiaries of M/C employees qualify for a benefit that, when added to the Retirement System's Ordinary Death Benefit, equals one year's salary. The maximum of the two benefits combined may not exceed the lesser of the annual salary or $50,000 or, if the benefit payable is reduced due to the member's age, five times the Ordinary Death Benefit (payable through the Retirement System) for which the employee is eligible.

The M/C Survivors' Benefit Program is authorized by Section 154-a of the Civil Service Law and is administered by the Employees' Retirement System. To qualify, an employee must meet a length of service requirement and die before the effective date of retirement. Questions concerning specifics of this program may be directed to the Survivors' Benefit Program, Employees' Retirement System. (See Directory, Section N)

5. Accidental Death Benefit

A $50,000 accidental death benefit is provided to the survivors or the estate of M/C employees who die as a result of accidental on-the-job injuries, and for whom death benefits have been paid pursuant to the Workers' Compensation Law. This benefit is in addition to, and does not replace, other State death benefits now provided.
In addition, a special fund has been established to provide the children of employees for whom such benefits have been paid with full tuition, up to the amount charged by the State University of New York, to attend any accredited college or university in New York State. This benefit is authorized by Section 154-c of the Civil Service Law and is administered by individual agencies and the Office of Employee Relations.

L. OPTIONAL GROUP INSURANCE

1. Group Life Insurance

New York State offers an optional group term life insurance program for management/confidential employees called "M/C Life," which is currently underwritten by the Metropolitan Life Insurance Company. Employees who enroll pay the full cost of this insurance. Various levels of coverage are offered at competitive group rates. The plan offers term life insurance for employees and their eligible dependents; an accidental death and dismemberment benefit is also included.

Employees who are non-smokers are eligible for a non-smoker premium discount. To be eligible for the reduced premium schedule, an employee must not have smoked cigarettes, cigars, or a pipe for the 12 months preceding either initial enrollment in the program or September 1 of the year in which a change in status is made.

The major features of the plan are:

- Employees may choose between a fixed amount of life insurance or an amount based on annual salary, with a maximum coverage of $500,000 available. An employee may select $5,000, $10,000, or $15,000 worth of coverage, or may select from one to five times annual salary (but not to exceed $500,000).

- In the event of death due to an accident prior to age 70, an additional accidental death benefit equal to the full amount of life insurance coverage (to a maximum of $250,000) is payable to the beneficiary. Double indemnity payments up to $500,000 are provided if death is caused by an accident that occurred while the employee was traveling on a common carrier (e.g., bus, train, or commercial airline).

- In the event of accidental dismemberment, half of the accidental death benefit is payable for the loss of a hand, foot, or the sight of one eye. The full amount is payable for any combination of these losses from any one accident.

- Dependent group life insurance is also available: up to 50 percent of the enrollee's benefit to a maximum of $20,000 for a spouse, and in a flat amount of $4,000 for each eligible child.

- Enrollees may continue group life insurance or convert to an individual policy upon retirement subject to the terms of the policy and provisions of State Insurance Law. If an individual leaves State service prior to retirement, they also may purchase an individual conversion policy.

Details of the program are contained in the booklet, *New York State Group Life Insurance Plan: M/C Life*, which is available, together with enrollment applications, from agency personnel offices.

2. M/C Personal Lines Insurance Program

The M/C Personal Lines Insurance Program is an optional mass marketed program that offers M/C employees automobile, homeowners/renters, and personal (umbrella) liability coverage at reasonable cost. It is currently administered by Pearl Insurance. All M/C employees are eligible to take part in this program and may sign up for any of these coverages at any time. Obtaining umbrella liability insurance, however, may require that underlying automobile or homeowner coverage be written through the same company that provides the umbrella coverage. Employees may elect to pay insurance premiums through payroll deduction or by direct payment to Pearl Insurance. To receive additional information and/or a personal rate quotation for any of these coverages, employees should contact Pearl Insurance directly. (See Directory, Section N)

M. POLICY DIRECTIVES

1. Sexual Harassment
See Equal Employment Opportunity Rights and Responsibilities Handbook.

2. Sexual Orientation
See Equal Employment Opportunity Rights and Responsibilities Handbook.

3. Age Discrimination
See Equal Employment Opportunity Rights and Responsibilities Handbook.

4. Ethics in Government
The Ethics Commission was created to restore public trust in government by ensuring compliance with the State's ethics and lobbying laws and regulations. It has jurisdiction over more than 300,000 officers and employees at State agencies and departments, including commissions, boards, State public benefit corporations, public authorities, SUNY, CUNY, and the statutory closely-affiliation corporations; the four statewide elected officials; members of the Legislature and candidates for those offices; employees of the Legislature; certain political party chairpersons; and registered lobbyists and their clients.

The Ethics Commission provides information, education, and advice regarding ethics and lobbying laws and promotes compliance through audits, investigations, and enforcement proceedings.t also issues formal and informal advisory opinions and promulgates regulations on the applicable laws and the effect on those subject to the Commission's jurisdiction.

Finally, the Commission promotes transparency by making required disclosures by those under its jurisdiction available to the public. These disclosures include, but are not limited to, annual financial disclosure statements filed by thousands of individuals and activity and expense reports filed by lobbyists and their clients. More information on ethics is available at https://ethics.ny.gov.

5. Political Activities
While New York State employees are not discouraged from participating in the political process, there must be a clear separation between their political activities and their duties as State employees. It is the policy of the State that no employee shall conduct political activities on paid State time or use State equipment, vehicles, or office space for any purpose other than official State business. In addition, employees of New York State shall not use their official authority to influence the political action of any person. Neither shall appointment to or removal from a State civil service protected position, in any manner, be affected by one's political affiliation. Section 107 of the Civil Service Law and Sections 17-156 and 17-158 of the Election Law specify these prohibitions.

6. Diversity and Inclusion

New York State is committed to a culture of respect that values and promotes diversity, inclusion and equal opportunity, free of unlawful discrimination on the basis of protected class status, including, age, race, creed, color, sex, sexual orientation, gender identity, national origin, military or veteran status, disability, predisposing genetic characteristics, marital or family status, domestic violence victim status, arrest record or criminal conviction history, or any other impermissible basis, in all functions performed, and services offered, by New York State employees.

It is the policy of New York State to protect and promote diversity, inclusion and equal opportunity in the State's workforce in accordance with the requirements of the New York State Human Rights Law, Title VII of the Federal Civil Rights Act, the Americans with Disabilities Act, all applicable requirements of New York state and federal law, and Executive Order No. 187 (2018).

7. Grievance Procedures for M/C Employees

Executive Order No. 42 (1970) establishes a procedure for the submission, review, and settlement of M/C grievances. An M/C employee has the right to grieve matters free from interference, coercion, restraint, discrimination, or reprisal. An employee may present his or her case at each step established by the grievance procedure and has the right to representation at each of these steps. A copy of the Executive Order grievance procedure and the rules and regulations that govern it can be found in Appendix F.

The initial steps are handled within the employee's agency, beginning with the supervisor and ending with the appointing authority. The final step of an appeal is heard by the three-member Grievance Appeals Board, composed of non-State employees. The Board reviews those appeals it deems appropriate and may require the personal appearance of the grievant and others. The Executive Order requires that each agency establish formal procedures for the submission of grievances by employees. Copies of an agency's grievance procedure and grievance form may be obtained from the agency personnel or labor relations office. An Executive Order grievance may also be filed in the form of a letter or memo to the employee's supervisor.

8. Alcohol and Controlled Substances in the Workplace

The longstanding policy of the State is that employees who engage in the unlawful distribution, sale or attempted sale, possession, or purchase of controlled substances while at the workplace or while performing in a work-related capacity will be subject to criminal, civil, and disciplinary penalties. Such illegal act, even if engaged in off duty, may result in disciplinary action.

State policy also prohibits on-the-job use of or impairment from alcohol or controlled substances. An employee may be required to undergo a confidential medical examination to ascertain the cause of impairment or disability when there exists a "reasonable suspicion," based on specific, reliable observations, that such impairment or disability is a result of the use of alcohol or a controlled substance. If alcohol or controlled substance use or impairment is found to exist, the appointing authority will

determine the appropriate course of action, which may include disciplinary action, referral to the Employee Assistance Program, or the use of disability leave procedures.

Agencies may have their own policies, procedures, or practices regarding alcohol and controlled substances, which also apply to their employees. A copy of the State's policy on alcohol and controlled substances in the workplace is included as Appendix G.

9. Defense and Indemnification of State Officers and Employees

Section 17 of the Public Officers Law provides for the defense and indemnification of employees who are involved in civil lawsuits based on their employment with New York State. If such civil action or proceeding arises out of an act or omission that occurred while the employee was acting within the scope of official duties, the State will provide for his or her defense or provide reasonable attorneys' fees if the Attorney General cannot provide representation. Likewise, the State will indemnify employees in the amount of any judgement or settlement obtained against them, provided that the injury or damage did not result from intentional wrongdoing on their part. Employees who are involved in any such lawsuit should notify their personnel office and the Attorney General immediately.

10. Review of an M/C Employee's Personal History Folder

Only one official personal history folder is to be maintained for an M/C employee. This folder should contain copies of personnel transactions, and all documents, memoranda, and correspondence relating to the employee's job performance, including written performance appraisals. Copies of such documents, memoranda, and correspondence should be provided to the employee at the time it is placed in the personal history folder.

An employee is to be given the opportunity to review his or her personal history folder in the presence of an appropriate agency official within three working days of a written request to do so. In the event the folder is kept other than at the employee's work location, up to five working days' notice may be required.

An M/C employee has the right to place in the personal history folder a written response to any material they deem to be adverse, with such response being attached to the document at issue.

N. DIRECTORY

The following list is arranged by topic and can prove helpful in getting answers to questions regarding your employment with New York State. Should you need information about a specific employee benefit (insurance) program, contact the listed provider directly or speak with your Agency Human Resource Office.

1. Attendance and Leave **(518) 457-2295**
Department of Civil Service
Empire State Plaza Agency Building 1

Albany, New York 12239

2. Insurance: Automobile, Homeowners and Renters

(518) 640-8100 or 800-833-4657

Pearl Insurance
12 Cornell Road
Latham, New York 12110

https://pearlinsurance.com

3. Deferred Compensation Plan **Helpline: 800-422-8463**

NYS Deferred Compensation Plan
Administrative Service Agency, PW-03-01
P. O. Box 182797
Columbus, Ohio 43218-2797

https://nysdcp.com

4. Dental Insurance **833-821-1949**

Anthem Dental Plan

Find a Provider
https://www.anthembluecross.com/mcr/nys-dental

5. Dependent Care **800-358-7202**

Dependent Care Advantage Account (DCAA) https://oer.ny.gov/fsa

6. Employee Assistance Program (EAP) **(518) 486-9769 or 800-822-0244**

https://oer.ny.gov/eap

Regional Offices

Watertown	(315) 785-2545
Syracuse	(315) 428-4963
Rochester	(585) 529-3690
Buffalo	(716) 847-3911
Mid-Hudson	(845) 567-1126
New York City	(718) 923-4321
Long Island	(631) 952-7032

7. Examination and List Information

Department of Civil Service
Empire State Plaza Agency Building 1
Albany, New York 12239

Exam Information	(518) 457-6216
Examination Status	(518) 457-4295
Eligible Lists	(518) 457-4295
Preferred Lists/Reemployment/Transfer Options	(518) 485-6199
provided by the Career Mobility Office (CMO)	800-553-1322

8. Health Care Spending Account — **800-358-7202**
https://oer.ny.gov/fsa

9. Health Insurance (General Information) — **(518) 457-5754 or**
Department of Civil Service — **800-833-4344**
Empire State Plaza Agency Building 1 — https://cs.ny.gov/ebd
Albany, New York 12239

10. Health Insurance (Empire Plan)

Call for information on benefits under Basic Medical and Participating provider Programs, pre-determination of benefits, claims and Participating Providers.

Empire Blue Cross and Blue Shield — **877-7-NYSHIP**
New York State Service Center — **877-769-7447**
P. O. Box 1407 Church Street Station
New York, New York 10008-1407

Call for hospital information and related services.

Organ and Tissue Transplant Program — **877-7-NYSHIP**
Call for information on or to arrange for — **877-769-7447**
transplant services.

Benefits Management Program — **877-7-NYSHIP**
For maternity or scheduled hospital admission, — **877-769-7447**
within 48 hours after an emergency or urgent
hospital admission, and before admission or
transfer to a skilled nursing facility.

Before elective (scheduled) Magnetic — **877-7-NYSHIP**
Resonance Imaging (MRI) — **877-769-7447**
Optum Health Behavioral Solutions — **877-7-NYSHIP**
Treatment for Mental Health and Substance Abuse — **877-769-7447**

United HealthCare Insurance Company of NY — 877-7-NYSHIP
P.O. Box 1600 — **877-769-7447**
Kingston, New York 12402-1600

Home Care Advocacy Program (HCAP) — **877-7-NYSHIP**
Call to arrange for paid-in-full home care — **877-769-7447**
services and/or durable medical equipment/supplies.

Managed Physical Medicine Program (MPN) — **877-7-NYSHIP**
Call for information on benefits and to find MPN — **877-769-7447**
network providers for chiropractic treatment and
physical therapy.

Infertility Benefits **877-7-NYSHIP**
Call for prior authorization for Qualified Procedures, regardless of Provider. **877-769-7447**
Call for the location of Centers of Excellence.

Complementary and Alternative Medicine (CAM) Program **877-7-NYSHIP**
For the names, addresses and phone numbers of Empire Plan CAM providers **877-769-7447**

Prescription Drug Program **877-7-NYSHIP**
Empire Blue Cross Blue Shield **877-769-7447**
P.O. Box 11826
Albany, New York 12211

The Nurse Line **800-439-3435**
Call for health information and advice, 24 hours a day, seven days a week.

11. Income Protection Plan (IPP) Regulations Division of Employee Benefits
Department of Civil Service (518) 457-5754 or
Empire State Plaza Agency Building 1 800-833-4344
Albany, New York 12239

For Status of STD or LTD Claims: 800-300-4296 ext. 2573 for STD
MetLife Disability Management Services 800-300-4296 ext. 2547 for LTD

12. Life Insurance
Department of Civil Service
Empire State Plaza Agency Building 1
Albany, New York 12239
Information and Filing Claims: (518) 473-3496

13. Paid Family Leave **(844) 337-6303**
https://ny.gov/PaidFamilyLeave

14. Retirement **(866) 805-0990** or
NYS and Local Retirement System **(518) 474-7736**
110 State Street
Albany, New York 12244-0001 https://osc.state.ny.us/retire

Teachers' Insurance Annuity Association (TIAA) **(212) 490-9000**
730 Third Avenue https://tiaa.org
New York, New York 10017

Teachers' Retirement System **(518) 447-2666**
10 Corporate Woods Drive

Albany, New York 12211-2395 https://nystrs.org

15. Survivors' Benefit Program **(518) 474-7736 or**
NYS and Local Retirement System **866-805-0990**
110 State Street
Albany, New York 12244-0001

16. Tuition Reimbursement Processing Unit **(518) 474-6772**
Office of Employee Relations
M/C Tuition Processing Unit
2 Empire State Plaza
Albany, New York 12223
https://oer.ny.gov/managementconfidential-mc-training-programs

17. Umbrella Liability Insurance **800-433-8657**
Pearl Insurance (518) 640-8100
11 Cornell Road
Latham, New York 12110

18. Vision Care Plan **888-588-4823**
Davis Vision, Inc.
711 Troy Schenectady Road https://cs.ny.gov/ebd
Latham, New York 12110

19. Workers' Compensation Board
100 Broadway
Albany, New York 12241

Workers' Compensation Board
Regional Offices

Albany	(866) 750-5157
Binghamton	(866) 802-3604
Buffalo	(866) 211-0645
Hauppauge	(866) 681-5354
Hempstead	(866) 805-3630
New York City	(800) 877-1373
Peekskill	(866) 746-0552
Rochester	(866) 211-0644
Syracuse	(866) 802-3730

Appendix A: Moving from a Bargaining Unit into the M/C Group

If you have recently moved from a position in a bargaining unit to a new position in the M/C group, or if your current position has been newly designated M/C, your personnel office should have provided you with information about what that change means for you in terms of benefits, available programs, policies, and practices.

There are certain benefits that are available only to M/Cs and others that differ somewhat from those offered to bargaining unit employees. Participation in some programs requires you to make important decisions in a relatively short time in order to take full advantage of these benefits. For others, you need only be aware of certain program elements. The following sets forth the major benefits and programs that are unique to M/Cs, and lists the issues to consider upon moving into the M/C group. Of course, you should read the entire handbook carefully, and familiarize yourself with all benefits, programs, policies, and practices that now apply to you.

As an M/C employee, you are now eligible to participate in the following benefits and programs previously unavailable to you:

- M/C Income Protection Plan
- Paid Family Leave
- M/C Life Insurance Program
- M/C Training and Development Programs
- Voluntary Reduction in Work Schedule (PS&T unit employees are also eligible)
- M/C Personal Insurance Program (auto, homeowners, personal liability insurances)

Some Important Considerations:

- If you have creditable State service prior to January 1, 1986, you have 30 days from the date of your appointment to the M/C position to choose between comprehensive disability coverage under the M/C Income Protection Plan (IPP) with reduced annual sick leave accruals, or the State's alternative sick leave accrual program.

- M/C employees can purchase low-cost group life insurance through the M/C Life Insurance Program. If you enroll in the program within the first six biweekly pay periods since your appointment to the M/C position, coverage is guaranteed without undergoing a physical examination or completing a medical questionnaire.

- There is a 28-day waiting period before new M/C employees may use the M/C Vision Care or Hearing Care benefits. You must also complete an enrollment form in order to use the plan.

- You may want to consider taking advantage of the several mass-marketed group insurance programs that are available to M/C employees on a payroll deduction basis (M/C Personal Insurance Program).

- You may also want to enroll in the State's Deferred Compensation Plan, through which you can direct the investment of a portion of your salary annually and defer taxes on these amounts and any appreciation in their value until you take distributions, normally at retirement age.

- If you are currently pursuing educational activities or have plans to take credit or non-credit career-related courses, you should inquire about benefits available under the M/C Tuition Reimbursement Program.

- OER sends information about upcoming M/C education and training opportunities to M/C employees, agency heads, and agency training and quality units, as appropriate. M/C employees seeking more information regarding management development should contact their agency training designee or OER.

Appendix B: Leave for Pregnancy, Childbirth, Child Care and Adoption

Department of Civil Service memorandum, "Leave for Pregnancy, Childbirth and Child Care," from Joseph A. F. Valenti to State Departments and Agencies, January 28, 1982. We have reviewed the State's policy on leave for pregnancy, childbirth, and child care in the light of recent court determinations concerning such leaves. I find it necessary to revise this policy statement to reflect the views of the court concerning these subjects. This memorandum revokes and replaces the August 3, 1973, memorandum from the Civil Service Commission regarding maternity leave effective immediately.

Pregnant employees may be asked or encouraged to report the existence of pregnancy, but they may not be required to do so. Where, in the opinion of the appointing officer, the nature of the duties performed may be particularly hazardous or burdensome during pregnancy, this should be pointed out in the letter of appointment and such employees should be urged to advise their supervisors of any pregnancy. In any case where the appointing authority believes the employee is unable to perform the duties of the position because of pregnancy, the employee may be required to undergo a medical examination, at the expense of the department or agency, by a physician designated by the appointing authority. A pregnant employee who is determined to be medically disabled from the performance of job duties must be treated the same as any other employee similarly disabled insofar as disability leave benefits are concerned.

Sick leave and sick leave at half-pay may be used only during a period of medical disability. Under the State's policy, disabilities arising from pregnancy or childbirth are treated the same as other disabilities in terms of eligibility for or entitlement to sick leave with and/or without pay, extended sick leave and sick leave at half-pay. Generally, the period of such disability is deemed to commence approximately four weeks prior to delivery and to continue for six weeks following delivery. While doctor's certificates may be required for any period of disability, agencies should request detailed medical documentation whenever disability is claimed to commence prior to or to extend beyond the period of disability described above.

An appointing authority may approve an employee's request for leave without pay during pregnancy and prior to the onset of any medical disability as a matter of discretion. Absences during pregnancy and following childbirth may be charged to vacation, overtime or personal leave irrespective of whether the employee is disabled. While the use of annual leave, overtime and personal leave accruals prior to the onset of medical disability is discretionary with the appointing authority, employees must be permitted to use these accruals during a period of medical disability after sick leave with pay has been exhausted.

Employees, regardless of sex, are entitled to leave without pay for child care for up to seven months following the date of delivery. For purposes of computing the seven-month period of mandatory leave, periods during which the employee was absent for "disability" or use of leave credits are included; the mandatory seven-month period is not extended by the granting of disability leave or the use of accrued leave. During a period

of leave for child care, employees shall be permitted, upon request, to use annual leave, personal leave and overtime credits before being granted leave without pay. As is the case with other mandatory leaves without pay (e.g., military leave), agencies shall not require that employees exhaust all appropriate leave credits prior to being granted leave without pay for child care. Sick leave or sick leave at half-pay may be used only during a period of medical disability (Attendance Rules Sections 21.3, 21.4, 21.5, 28.3, 28.4 and 28.5). Except in the case of continuing medical disability, any leave of absence beyond the seventh month following childbirth shall be at the discretion of the appointing authority as provided in Sections 22.1 and 29.1 of the Attendance Rules. An employee who requests leave for child care of less than seven months is entitled to have such leave extended, upon request, up to the seven-month maximum and may, at the discretion of the appointing authority, have such leave extended beyond the seventh month. In certain situations, an employee may not be permitted to return from such leave until the expiration of the period that such employee requested and was granted. Generally, such restrictions on early return are limited to situations where such return would be disruptive of a project or wherever the termination of a replacement would occur.

During the seven-month period following childbirth, the granting of leave for child care is mandatory upon request from either parent. If both parents are State employees, leave for child care is mandatory for one parent at a time and the parents may elect to split the mandatory seven months leave into two separate blocks of leave with each parent entitled to one continuous period of leave but not to exceed a combined total of seven months of leave and not to extend beyond seven months from the date of delivery.

Agencies may, in their discretion, approve other arrangements for shared leave including concurrent leave and may, as a matter of discretion, extend leave for child care beyond the mandatory seven months. Furthermore, while one parent is absent on leave for child care, agencies continue to have the discretion to approve requests from the other parent for periods of vacation or personal leave, and for family sick leave in accordance with Sections 21.3(f) and 28.3(f) of the Attendance Rules.

Temporary, provisional and probationary employees without any permanent status are entitled to leave with full pay and/or without pay as described above. However, these employees are not eligible for sick leave at half-pay nor are they entitled to leave beyond that date when their employment would otherwise terminate (e.g., temporary item abolished, permanent incumbent restored to item, certification of eligible lists, etc.). In general, the State's policy on leave for pregnancy, childbirth and child care shall not be construed to require extension of any employment (permanent, permanent contingent, temporary, or provisional) beyond the time it would otherwise terminate.

Questions concerning the State's policy on leave for pregnancy, childbirth and child care should be referred to the Division of Program Evaluation and Development of this Department (Telephone 518 457-2295).
Department of Civil Service memorandum, "Child Care Leave for Adoptive Parents," from Joseph A.F. Valenti to State Departments and Agencies, March 11, 1982

On January 28, 1982, I issued a memorandum to State agencies concerning leave for pregnancy, childbirth and child care. Consistent with that memorandum, I am extending entitlement to leave without pay for child care to adoptive parents in the same manner and to the same extent that such leave is available to natural parents. This memorandum applies to all eligible State employees, except that where an Agreement between the State and an employee organization entered into pursuant to Article 14 of the Civil Service Law (the Taylor Law) provides for a different leave benefit, the provisions of the Agreement shall control. However, nothing in the Agreements precludes appointing authorities from extending the benefits provided by this policy on a discretionary basis.

State employees, regardless of gender, are entitled to a maximum of seven months of leave without pay for child care in connection with the adoption of a child in accordance with the provisions of Article 7 of the Domestic Relations Law. Entitlement to such leave without pay shall be for a period of up to seven months. The employee may take leave for this purpose starting at any time from the date the adoptive child is placed with the family to the effective date of the adoption.

In general, the guidelines for leave of absence for child care for adoptive parents are the same as those governing leave for child care for natural parents.

During a period of leave for child care, employees shall be permitted, upon request, to use annual leave, personal leave and overtime credits before being granted leave without pay. However, agencies shall not require that employees exhaust all appropriate leave credits before being granted leave without pay for child care. The seven-month period of such leave is not extended by the use of accrued leave credits.

An adoptive parent who requests a leave of absence for child care purposes of less than seven months is entitled to have such leave extended, upon request, up to the seven-month maximum.

If both adoptive parents are State employees, one parent may elect to take the entire leave, or the parents may choose to divide the leave time with each entitled to one continuous period of leave as long as it does not exceed a combined total of seven months of leave.

Agencies may, in their discretion, approve other arrangements for shared leave and may as a matter of discretion extend leave for child care for adoptive parents beyond the seven months to which this new policy entitles them. Furthermore, while one parent is absent on leave for child care, agencies continue to have the discretion to approve requests from the other parent for periods of vacation or personal leave, or for family sick leave in accordance with Section 21.3(f) and 28.3(f) of the Attendance Rules.

The State's policy on leave for child care for adoptive parents shall not be construed to require extension of any employment beyond the time it would otherwise terminate.

Questions concerning the State's policy on leave for child care for adoptive parents should be referred to the Division of Program Evaluation and Development of this Department (Telephone 518 457-2295).

Appendix C: Code of Ethics

Public Officers Law, Section 74

§74. Code of ethics

1. Definition
   As used in this section: The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department or any public benefit corporation or public authority at least one of whose members is appointed by the governor.

2. The term "legislative employee" shall mean any officer or employee of the legislature but it shall not include members of the legislature.

3. Rule with respect to conflicts of interest. No officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

4. Standards

   a. No officer or employee of a state agency, member of the legislature or legislative employee should accept other employment which will impair his independence of judgment in the exercise of his official duties.

   b. No officer or employee of a state agency, member of the legislature or legislative employee should accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.

   c. No officer or employee of a state agency, member of the legislature or legislative employee should disclose confidential information acquired by him in the course of his official duties nor use such information to further his personal interests.

   d. No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

   e. No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the state with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

g. An officer or employee of a state agency should abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

h. An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

i. No officer or employee of a state agency employed on a full-time basis nor any firm or association of which such an officer or employee is a member nor corporation, a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer or employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the state agency in which such officer serves or is employed.

j. If any officer or employee of a state agency shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he should file with the secretary of state a written statement that he has such a financial interest in such activity which statement shall be open to public inspection.

5. Violations
   In addition to any penalty contained in any other provision of law any such officer, member or employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in the manner provided by law.

Appendix D: Restrictions on Business or Professional Activities

Public Officers Law, Section 73

§73. Business or professional activities by state officers and employees and party officers

1. As used in this section:

    a. The term "compensation" shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles as defined by the state ethics commission or legislative ethics committee in relation to persons subject to their respective jurisdictions.

    b. The term "licensing" shall mean any state agency activity, other than before the division of corporations and state records in the department of state, respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency as defined herein, which in the absence of such license, permit or other form of permission would be prohibited.

    c. The term "legislative employee" shall mean any officer or employee of the legislature but it shall not include members of the legislature.

    d. The term "ministerial matter" shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

    e. The term "regulatory agency" shall mean the banking department, insurance department, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state, other than the division of corporations and state records, department of public service, the industrial board of appeals in the department of labor and the department of law, other than when the attorney general or his agents or employees are performing duties specified in section sixty-three of the executive law.

f. The term "representative capacity" shall mean the presentation of the interests of a client or other person pursuant to an agreement, express or implied, for compensation for services.

g. The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state.

h. The term "statewide elected official" shall mean the governor, lieutenant governor, comptroller or attorney general.

i. The term "state officer or employee" shall mean:

    1. heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis;

    2. officers and employees of statewide elected officials;

    3. officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and

    4. members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions.

j. The term "city agency" shall mean a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation or other agency of government, the expenses of which are paid in whole or in part from the city treasury and shall include the board of education, the board of higher education, school boards, city and community colleges, community boards, the New York city transit authority, the New York city housing authority and the Triborough bridge and tunnel authority, but shall not include any court or corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

k. The term "political party chairman" shall mean:

1. the chairman of the state committee of a party elected as provided in section 2-112 of the election law and their successor in office;

2. the chairman of a county committee elected as provided in section 2-112 of the election law and their successor in office from a county having a population of three hundred thousand or more or who receives compensation or expenses, or both, during the calendar year aggregating thirty thousand dollars or more; and

3. that person (usually designated by the rules of a county committee as the "county leader" or "chairman of the executive committee") by whatever title designated, who pursuant to the rules of a county committee or in actual practice, possesses or performs any or all of the following duties or roles, provided that such person was elected from a county having a population three hundred thousand or more or was a person who received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more:

    A. the principal political, executive and administrative officer of the county committee;

    B. the power of general management over the affairs of the county committee;

    C. the power to exercise the powers of chairman of the county committee as provided for in the rules of the county committee;

    D. the power to preside at all meetings of the county executive committee, if such a committee is created by the rules of the county committee or exists de facto, or any other committee or subcommittee of the county committee vested by such rules with or having de facto the power of general management over the affairs of county committee at times when the county committee is not in actual session;

    E. the power to call a meeting of the county committee or of any committee or subcommittee vested with the rights, powers, duties or privileges of the county committee pursuant to the rules of the county committee, for the purpose of filling an office at a special election in accordance with section 6-114 of the election law, for the purpose of filling a vacancy in accordance with section 6-116 of such law; or

F. the power to direct the treasurer of the party to expend funds of the county committee.

The terms "constituted committee" and "political committee", as used in this paragraph (k), shall have the same meanings as those contained in section 14-100 of the election law.

2. In addition to the prohibitions contained in subdivision seven hereof, no statewide elected official, state officer or employee, member of the legislature or legislative employee shall receive, or enter into any agreement express or implied for, compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit; provided, however, that nothing in this subdivision shall be deemed to prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

3.

a. No statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this chapter shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another against the interest of the state in relation to any case, proceeding, application or other matter before, or the transaction of business by himself or another with, the court of claims.

b. No state officer or employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this article, and is not otherwise subject to the provisions of this section, shall receive, directly or indirectly, or enter into any agreement express or implied, for any compensation, in whatever form, for the appearance or rendition of services by himself or another against the interest of the state agency by which he is employed or affiliated in relation to any case, proceeding, application or other matter before, or the transaction of business by himself or another with, the court of claims.

4.

a. No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such services with or to any private entity where the power to contract, appoint or

retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

b. No political party chairman of a county wholly included in a city with a population of more than one million, or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any city agency, or (ii) contract for or provide such services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised directly or indirectly, by a city agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purposes and for which the rates are fixed pursuant to law.

c. For purposes of this subdivision, the term "services" shall not include employment as an employee.

5. No statewide elected official, state officer or employee, member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any gift having a value of seventy-five dollars or more whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. No person shall, directly or indirectly, offer or make any such gift to a statewide elected official, or any state officer or employee, member of the legislature or legislative employee under such circumstances.

6.

a. Every legislative employee not subject to the provisions of section seventy-three-a of this chapter shall, on and after December fifteenth and before the following January fifteenth, in each year, file with the legislative ethics committee established by section eighty of the legislative law a financial disclosure statement of

1. each financial interest, direct or indirect of himself, his spouse and his unemancipated children under the age of eighteen years in any activity which is subject to the jurisdiction of a regulatory agency or name of the

entity in which the interest is had and whether such interest is over or under five thousand dollars in value.

2. every office and directorship held by him in any corporation, firm or enterprise which is subject to the jurisdiction of a regulatory agency, including the name of such corporation, firm or enterprise.

3. any other interest or relationship which he determines in his discretion might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed.

b. Copies of such statements shall be open to public inspection.

c. Any such legislative employee who knowingly and willfully with intent to deceive makes a false statement or gives information which he knows to be false in any written statement required to be filed pursuant to this subdivision, shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty shall be made by the legislative ethics committee in accordance with the provisions of subdivision twelve of section eighty of the legislative law. For a violation of this subdivision, the committee may, in lieu of civil penalty, refer a violation to the appropriate prosecutor and upon conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor.

7.

a. No statewide elected official, or state officer or employee, other than in the proper discharge of official duties, or member of the legislature or legislative employee, or political party chairman shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another in relation to any case, proceeding, application or other matter before a state agency where such appearance or rendition of services is in connection with:

i. the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;

ii. any proceeding relating to rate making;

iii. the adoption or repeal of any rule or regulation having the force and effect of law;

iv. the obtaining of grants of money or loans;

v. licensing; or

vi. any proceeding relating to a franchise provided for in the public service law.

b. No political party chairman in a county wholly included in a city having a population of one million or more shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another in relation to any case, proceeding, application or other matter before any city agency where such appearance or rendition of services is in connection with:

i. the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;

ii. any proceeding relating to ratemaking;

iii. the adoption or repeal of any rule or regulation having the force and effect of law;

iv. the obtaining of grants of money or loans;

v. licensing. For purposes of this paragraph, the term "licensing" shall mean any city agency activity respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation of (ii) any business or activity regulated by a regulatory agency of a city agency which in the absence of such license, permit or other form of permission would be prohibited; and

vi. any proceeding relating to a franchise.

c. Nothing contained in this subdivision shall prohibit a statewide elected official, or a state officer or employee, unless otherwise prohibited, or a member of the legislature or legislative employee, or political party chairman from appearing before a state agency in a respective capacity if such appearance in a respective capacity is in connection with a ministerial matter.

d. Nothing contained in this subdivision shall prohibit a member of the legislature, or a legislative employee on behalf of such member, from participating in or advocating any position in any matter in an official or legislative capacity, including, but not limited to, acting as a public advocate whether or not on behalf of a constituent. Nothing in this paragraph shall be construed to limit the application of the provisions of section seventy-seven of this chapter.

e. Nothing contained in this subdivision shall prohibit a state officer or employee from appearing before a state agency in a representative capacity on behalf of an employee organization in any matter where such appearance is duly authorized by an employee organization.

f. Nothing contained in this subdivision shall prohibit a political party chairman from participating in or advocating any matter in an official capacity.

g. Nothing contained in this subdivision shall prohibit internal research or discussion of a matter, provided, however, that the time is not charged to the client and the person does not share in the net revenues generated or produced by the matter.

8.

a.

i. No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency.

ii. No person who has served as a state officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any state agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which they personally participated during the period of their service of employment or which was under their active consideration.

iii. No person who has served as a member of the legislature shall within a period of two years after the termination of such service receive compensation for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature. No legislative employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this chapter shall during the term of office of the legislature in which they were so employed, receive compensation at any time during the remainder of such term after leaving the employ of the legislature for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature in relation to any matter with respect to which such person was directly concerned and in which he personally participated during the period of his service or

employment. A legislative employee who acted primarily in a supervisory capacity in such matter and who was not personally involved in the development, negotiation or implementation of the matter to an important and material degree, may, with the approval of the legislative ethics committee, receive such compensation and perform such services.

b.

i. The provisions of subparagraph (i) of paragraph (a) of this subdivision shall not apply to any state officer or employee whose employment was terminated on or after January first, nineteen hundred ninety-five and before December thirty-first, nineteen hundred ninety-five because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force. On or before the date of such termination of employment, the state agency shall provide to the terminated employee a written certification that the employee has been terminated because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force, and that such employee is covered by the provisions of this paragraph. The written certification shall also contain a notice describing the rights and responsibilities of the employee pursuant to the provisions of this section. The certification and notice shall contain the information and shall be in the form set forth below:

CERTIFICATION AND NOTICE

TO: Employee's Name
State Agency
Date of Termination

I, (name and title) of (state agency), hereby certify that your termination from State service is because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the State work force. Therefore, you are covered by the provisions of paragraph (b) of subdivision eight of section seventy-three of the Public Officers Law.

You were designated as a policy maker: Yes_____ No _____
(Title)_____

To the Employee:

This certification affects your right to engage in certain activities after you leave state service.

Ordinarily, employees who leave state service may not, for two years, appeal or practice before their former agency or receive compensation for rendering services on a matter

before their former agency. However, because of this certification, you may be exempt from this restriction.

If you were not designated as a Policymaker by your agency, you are automatically exempt. You may, upon leaving state service, immediately appear, practice or receive compensation for services rendered before your former agency.

If you were designated as a Policymaker by your agency, you are eligible to apply for exception to the State Ethics Commission at 39 Columbia Street, Albany, New York 12207.

Even if you are or become exempt from the two-year bar, the lifetime bar of the revolving door statute will continue to apply to you. You may not appear, practice, communicate or otherwise render services before any State agency in relation to any case, proceeding, application or transaction with respect to which you were directly concerned and in which you personally participated during your State service, or which was under your active consideration.

If you have any questions about the application of the post-employment restrictions to your circumstances, you may contact the State Ethics Commission at (518) 432-8207 or 1-800-873-8442.

ii. The provisions of subparagraph (i) of this paragraph shall not apply to any such officer or employee who at the time of or prior to such termination had served in a policy-making position as determined by the appointing authority, which determination had been filed with the state ethics commission, provided that such officer or employee may so appear or practice or receive such compensation with the prior approval of the state ethics commission. In determining whether to grant such approval the state ethics commission shall consider:

A. whether the employee's prior job duties involved substantial decision-making authority over policies, rule or contracts;

B. the nature of the duties to be performed by the employee for the prospective employer;

C. whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee;

D. whether the prospective employment may be beneficial to the state or the public; and

E. the extent of economic hardship to the employee if the application is denied.

c. The provisions of paragraph (b) of this subdivision shall not apply to employees whose employment has been discontinued as a result of retirement or to employees who, prior to termination, have declined to exercise a right to another position with a state agency unless such position would require the employee to travel more than thirty-five miles in each direction to the new position or accept a reduction in base salary of more than ten per centum.

d. Nothing contained in this subdivision shall prohibit any state agency from adopting rules concerning practice before it by former officers or employees more restrictive than the requirements of this subdivision.

e. This subdivision shall not apply to any appearance, practice, communication or rendition of services before any state agency, or either house of the legislature, or to the receipt of compensation for any such services, rendered by a former state officer or employee or former member of the legislature or legislative employee, which is made while carrying out official duties as an elected official or employee of a federal, state or local government or one of its agencies.

f. Nothing in this subdivision shall be deemed to prevent a former state officer or employee who was employed on a temporary basis to perform routine clerical services, mail services, data entry services or other similar ministerial tasks, from subsequently being employed by a person, firm, corporation or association under contract to a state agency to perform such routine clerical services, mail services, data entry services or other similar ministerial tasks; provided however, this paragraph shall in no event apply to any such state officer or employee who was required to file an annual statement of financial disclosure pursuant to section seventy-three-a of this article.

The provisions of paragraphs (a) and (b) of subdivision eight of this section shall not apply to any such former state officer or employee engaged in any of the specific permitted activities defined in this subdivision that are related to any civil action or proceeding in any state or federal court, provided that the attorney general has certified in writing to the state ethics commission, with a copy to such former state officer or employee, that the services are rendered on behalf of the state, a state agency, state officer or employee, or other person or entity represented by the attorney general, and that such former state officer or employee has expertise, knowledge or experience which is unique or outstanding in a field or in a particular matter or which would otherwise be generally unavailable at a comparable cost to the state, a state agency, state officer or employee, or other person or entity represented by the attorney general in such civil action or proceeding. For purposes of this subdivision the term "permitted activities" shall mean generally any activity performed at the request of the attorney general or the attorney general's designee, including without limitation:

a. preparing or giving testimony or executing one or more affidavits;

b. gathering, reviewing or analyzing information, including documentary or oral information concerning facts or opinions, attending depositions or participating in document review or discovery;

c. performing investigations, examinations, inspections or tests of persons, documents or things;

d. performing audits, appraisals, compilations or computations, or reporting about them;

e. identifying information to be sought concerning facts or opinions; or

f. otherwise assisting in the preparation for, or conduct of, such litigation.

Nothing in this subdivision shall apply to the provision of legal representation by any former state officer or employee.

9. No party officer while serving as such shall be eligible to serve as a judge of any court of record, attorney-general or deputy or assistant attorney-general or solicitor general, district attorney or assistant district attorney. As used in this subdivision, the term "party officer" shall mean a member of a national committee, an officer or member of a state committee or a county chairman of any political party.

10. Nothing contained in this section, the judiciary law, the education law or any other law or disciplinary rule shall be construed or applied to prohibit any firm, association or corporation, in which any present or former statewide elected official, state officer or employee, or political party chairman, member of the legislature or legislative employee is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with a state agency, or a city agency with respect to a political party chairman in a county wholly included in a city with a population of more than one million, otherwise proscribed by this section, the judiciary law, the education law or any other law or disciplinary rule with respect to such official, member of the legislature or officer or employee, or political party chairman, where such statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the state ethics commission or by the legislative ethics committee in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that they would not share in the net revenues as so defined; nor shall anything contained in this section, the judiciary law, the education law or any other law or disciplinary rule be construed to prohibit any

firm, association or corporation in which any present or former statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this chapter is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, the court of claims, where such statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this chapter does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the state ethics commission or by the legislative ethics committee in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that they would not share in the net revenues as so defined.

11. Notwithstanding any provision of the judiciary law, the education law or any other law or disciplinary rule to the contrary:

    a. Conduct authorized pursuant to subdivision eight of this section by a person who has served as a member of the legislature or as a legislative employee shall not constitute professional misconduct or grounds for disciplinary action of any kind;

    b. No member of the legislature or former member of the legislature shall be prohibited from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, any state agency solely by reason of any vote or other action by such member or former member in respect to the confirmation or election of any member, commissioner, director or other person affiliated with such state agency, but nothing in this paragraph shall limit the prohibition contained in subdivision eight of this section;

    c. The appearance, practice, communication or rendition of services in relation to any matter before, or transaction of business with a state agency, or with the court of claims, or the promotion or opposition to the passage of bills or resolutions by either house of the legislature, by a member, associate, retired member, of counsel or shareholder of a firm, association or corporation, in accordance with subdivision ten of this section, is hereby authorized and shall not constitute professional misconduct or grounds for disciplinary action of any kind solely by reason of the professional relationship between the statewide elected official, state officer or employee, political party chairman, member of the legislature, or legislative employee and any firm, association, corporation or any member, associate, retired member, of counsel, or shareholder thereof, or by reason of the appearance created by any such professional relationship.

12. A statewide elected official, state officer or employee, or a member of the legislature or legislative employee, or political party chairman, who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation which is appearing or rendering services in connection with any case proceeding, application or other matter listed in paragraph (a) or (b) of subdivision seven of this section shall not orally communicate, with or without compensation, as to the merits of such cause with an officer or an employee of the agency concerned with the matter.

13. For the purposes of this section, a statewide elected official or state officer or employee or member of the legislature or legislative employee or political party chairman who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation shall not be deemed to have made an appearance under the provisions of this section solely by the submission to a state agency or city agency of any printed material or document bearing his or her name, but unsigned by him or her, such as by limited illustrations the name of the firm, association or corporation or the letterhead of any stationery, which pro forma serves only as an indication that they are such a member associate, retired member, of counsel to, or shareholder.

14. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates the provisions of subdivisions two through five or subdivision seven, eight or twelve of this section shall be subject to a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the state ethics commission or the legislative ethics committee, as the case may be, with respect to persons subject to their respective jurisdictions. The state ethics commission acting pursuant to subdivision thirteen of section ninety-four of the executive law, or the legislative ethics committee acting pursuant to subdivision twelve of section eighty of the legislative law, as the case may be, may, in lieu of a civil penalty, with respect to a violation of subdivisions two through five or subdivision seven or eight of this section, refer a violation of any such subdivision to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor.

Appendix E: Diversity and Inclusion

Executive Order No. 187: Ensuring Diversity and Inclusion and Combating Harassment and Discrimination in the Workplace

WHEREAS, it is a cornerstone of democratic governance of the State of New York that every New York State employee is treated equally before the law and has the right to full enjoyment of the protections, rights and obligations provided by law;

WHEREAS, New York State is committed to a culture of respect that values and promotes diversity, inclusion and equal opportunity, free of unlawful discrimination on the basis of protected class status, including, age, race, creed, color, sex, sexual orientation, gender identity, national origin, military or veteran status, disability, predisposing genetic characteristics, marital or family status, domestic violence victim status, arrest record or criminal conviction history, or any other impermissible basis, in all functions performed, and services offered, by New York State employees;

WHEREAS, it is the policy of New York State to protect and promote diversity, inclusion and equal opportunity in the State's workforce in accordance with the requirements of the New York State Human Rights Law, Title VII of the Federal Civil Rights Act, the Americans with Disabilities Act, and all applicable requirements of New York state and federal law;

WHEREAS, it is imperative that New York State continue its efforts to facilitate effective, coordinated strategies for diversity and inclusion, and for preventing and remedying discrimination and harassment at all levels of state government, that employ best practices and make effective use of resources across New York State agencies;

WHEREAS, New York State is committed to effectuating the comprehensive recommendations of the Governor's Advisory Council on Diversity and Inclusion to increase diversity and inclusion in state government;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

I. Governor's Executive Committee for Diversity, Inclusion, and Equal Opportunity

a. The Governor's Executive Committee for Diversity, Inclusion, and Equal Opportunity is hereby established and its membership shall consist of the following: the Chief Diversity Officer, who shall serve as the chairperson, the Commissioner of Civil Service who shall serve as vice-chairperson, the Director of Budget, the Commissioner of the Division of Human Rights, the Commissioner of Labor, the Secretary of State, the Director of Employee Relations, the Director

of Veterans' Affairs, and the Commissioner of the Office for People With Developmental Disabilities. Membership of the committee may be amended by the chairperson and vice-chairperson, with the agreement of the current members of the committee. The vice-chairperson shall perform the duties of the chairperson in the chairperson's absence and at such times as the chairperson may direct.

b. The Committee shall advise the Governor, the Chief Diversity Officer and the Commissioner of Civil Service in the formulation and coordination of plans, policies, and programs relating to diversity and inclusion in all Affected State Entities, as defined in Article II of this Order, and in assuring effective implementation of such policies, plans, and programs by such entities.

II. Comprehensive State Diversity and Inclusion Planning

a. Definitions: As used herein, the following terms shall have the following meanings:

i. "Affected State Entities" shall mean (i) all agencies and departments over which the Governor has Executive Authority; and (ii) all public benefit corporations, public authorities and commissions, for which the Governor appoints the Chair, Chief Executive, or the majority of Board Members, except for the Port Authority of New York and New Jersey.

ii. "State officer or employee" shall have the meaning set forth in Section 73 of the New York Public Officers Law.

b. Responsibilities of the Commissioner of Civil Service and Chief Diversity Officer

i. No later than December 31, 2018, the Chief Diversity Officer and the Commissioner of Civil Service shall prepare comprehensive statewide objectives for the employment of minorities, women, lesbian, gay, bisexual, and transgender (LGBT) individuals, disabled persons, and veterans, and guidelines for agencies to prepare agency diversity and inclusion plans, including policies, objectives and implementation strategies. Such objectives and guidelines shall be developed with the advice of the Executive Committee for Diversity, Inclusion, and Equal Opportunity established pursuant to Article I of this Order and shall be updated as necessary.

ii. The Chief Diversity Officer and the Commissioner of Civil Service shall be responsible for monitoring the implementation of the written diversity and inclusion plans of State agencies on a continuing basis, including the need for revising or amending such plans and shall provide regular reports on progress to the Governor, incorporating recommendations for improving and strengthening such efforts.

iii. Upon a finding by the Chief Diversity Officer and Commissioner of Civil Service of substantial noncompliance by a State agency or department with the requirements or terms of this Order, the Chief Diversity Officer shall notify the

agency or department of such finding and propose a remedial plan of action. The agency or department shall have 30 days from the receipt of such notice to accept the remedial plan or submit an alternative remedial plan acceptable to the Chief Diversity Officer and Commissioner. The Chief Diversity Officer and Commissioner may work directly with the agency or department to develop and implement the remedial plan until they are satisfied that the agency or department will implement the plan in compliance with the provisions of this Order.

iv. The Commissioner of Civil Service shall prepare annually a report of the composition of the work force of each State agency and department by sex and ethnic identity for all job categories, salary grades, and civil service classifications. The Chief Diversity Officer working in collaboration with the Commissioner of Civil Service shall also conduct studies to identify and resolve problems in eliminating under-representation and under-utilization of minorities, women, LGBT individuals, disabled persons, and veterans, and shall make recommendations to the Governor concerning the adoption or amendment of other laws, rules and regulations for the same purpose.

v. There is hereby established the Office of Diversity Management within the Department of Civil Service. The Office of Diversity Management shall be responsible for assisting the Commissioner of Civil Service and the Chief Diversity Officer in the effective development and implementation of statewide diversity and inclusion plans, policies, and programs. State agencies, officers and employees shall cooperate with the Office of Diversity Management and necessary staff may be transferred to the Office of Diversity Management pursuant to Civil Service Law 70.2.

c. Development and Implementation of Diversity and Inclusion Programs by State Agencies

i. Each Affected State Entity shall develop a written diversity and inclusion plan consistent with the guidelines developed by the Chief Diversity Officer and Commissioner of Civil Service under Article II (b)(i) of this Order.

ii. The head of each Affected State Entity shall designate an employee as the agency's diversity and inclusion officer and report such designation to the Chief Diversity Officer and the Commissioner of Civil Service. The diversity and inclusion officer shall report to the agency head and shall have such support staff as may be appropriate to accomplish his or her duties.

iii. By December 31 of each year, beginning in 2019, each Affected State Entity shall submit a report on diversity and inclusion to the Chief Diversity Officer and the Commissioner of Civil Service. Such reports shall be submitted periodically, but not less frequently than annually, in a format and pursuant to standards issued by the Chief Diversity Officer and the Commissioner of Civil Service, and

shall include a report on the agency's employment actions with respect to minorities, women, disabled persons, LGBT individuals, and veterans, and shall identify the agency's achievements, deficiencies, proposed solutions to problems, the need for external assistance, and such other matters as may be appropriate or requested.

iv. Each Affected State Entity shall cooperate with the Chief Diversity Officer and the Commissioner of Civil Service to provide any other information, data, and reports as may be deemed necessary.

d. The State Workforce Diversity and Inclusion Council

i. There is hereby established the State Workforce Diversity and Inclusion Council (the "Workforce Council"). It shall consist of the diversity and inclusion officers of each agency designated pursuant to Article II(c)(ii) of this Order. The business of the Advisory Council shall be conducted pursuant to by-laws adopted by the members and subject to the approval of the Chief Diversity Officer and the Commissioner of Civil Service.

ii. The Advisory Council shall advise the Chief Diversity Officer, the Commissioner of Civil Service, and the Executive Committee for Diversity, Inclusion, and Equal Opportunity established pursuant to Article I of this Order, on all existing and proposed policies, procedures, practices and programs relating to or affecting affirmative action, and consistent with any request by the Chief Diversity Officer and the Commissioner of Civil Service shall submit reports of its activities.

III. Combating Harassment and Discrimination in State Agencies

a. Definitions

i. “Affected State Agency” shall mean all agencies and departments over which the Governor has executive authority.

ii. “Protected class discrimination” shall mean employment-related discrimination that is unlawful pursuant to federal laws, rules or regulations and/or state laws, rules or regulations, including but not limited to, Title VII of the Federal Civil Rights Act, the Americans with Disabilities Act, and the New York State Human Rights Law.

b. In order to promote the effective, complete and timely investigation of complaints of employment-related protected class discrimination, as of December 1, 2018, the Office of Employee Relations (OER) shall be responsible for conducting all investigations into employment-related discrimination complaints filed by employees, contractors, interns or other persons engaged in employment at Affected State Agencies as defined in Article III(a)(i) of this Order.

c. Such Affected State Agencies shall transfer the investigation function pursuant to Civil Service Law 70.2 to OER and continue to permit such employees as are

assigned by OER to investigate complaints of protected class discrimination within their entity and shall cooperate fully with any and all investigations.

IV. Revocation of Previous Executive Order

This Executive Order revokes and supersedes Executive Order Number 6, dated February 18, 1983.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty third day of August in the year two thousand eighteen. /s/ Andrew Cuomo

Appendix F: Grievance Procedures

Executive Order No. 42

Relating to Procedures for Submission and Settlement of Certain Grievances of State Employees

With the advent of collective negotiations between the State and employee organizations pursuant to the Public Employees' Fair Employment Act of 1967, collectively negotiated agreements ("collective agreements") have been entered into which provide for grievance procedures which are intended to supersede in whole or in part the grievance procedures provided for by the Executive Order heretofore issued on August 28, 1963. Such negotiated grievance procedures are a milestone in the development of collective negotiations in the public sector. Nevertheless, there is still an important reason for the continuation of procedures for the settlement of grievances of employees who are not covered by collective agreements or for the settlement of non-contract grievances which are outside of the scope of the grievance procedure set forth in any such collective agreement.

1. **Eligibility**
   Every employee to whom this order applies shall have the right to present his grievance in accordance with this order, free from interference, coercion, restraint, discrimination or reprisal. He shall have the right to present his grievance individually or with a representative of his own choosing at all steps of the grievance procedure hereunder, except that where there is in effect a collective agreement covering a negotiation unit which includes such employee which was entered into between the State and an employee organization, then such employee may not choose as his representative any employee organization other than the employee organization with which such agreement was negotiated nor may any employee organization with which such agreement was negotiated initiate or process a grievance except to the extent permitted by such agreement.

2. **Grievance Appeals Board**
   The Grievance Appeals Board established by the Executive Order heretofore issued on August 28, 1963, shall be transferred to the Office of Employee Relations. It shall consist of three members appointed by and who shall serve at the pleasure of the Director of Employee Relations. No person regularly employed in a full-time position in the State service shall be eligible for appointment to the Board. One member shall be designated by the Director to serve as chairman of the Board. The compensation of the members of the Board shall be fixed by the Director with the approval of the Director of the Budget.

3. **Departmental Procedures**
   The head of each State department or agency shall, subject to the approval of the Grievance Appeals Board established pursuant to this order, establish formal procedures for the submission of grievances by employees and for the prompt and orderly consideration and determination of such grievances by supervisors and the department or agency head.

4. **Powers and Duties of the Grievance Appeals Board**
   The Grievance Appeals Board is hereby charged with the responsibility for and empowered to:

   a. establish and maintain a program for resolving employee grievances relating to conditions of employment in the State service not inconsistent with the State's obligations as an employer under the Public Employees' Fair Employment Act of 1967 or collective agreements entered into thereunder.

   b. promulgate and amend from time to time, with the approval of the Director of Employee Relations, such regulations as may be necessary to carry out the provisions of this order and to review and approve grievance procedures established by departments and agencies pursuant to this order and such regulations, including provisions for reasonable time off without charge to leave credits for grievants, representatives and witnesses.

   c. hold hearings, to conduct investigations, to require the attendance of officers and employees of the State as witnesses and to require the production or examination of records, books and papers of State departments or agencies relating to administration of the grievance procedure.

   d. render advice and assistance to officers and employees of State departments and agencies in any matter relating to the establishment or use of the procedures provided for or adopted pursuant to this order or the regulations issued thereunder.

   e. report to the Director of Employee Relations for appropriate action the failure of any department or agency to establish properly or maintain satisfactorily the standards, principles, determinations and procedures embodied in or authorized by this order.

5. **Appeals**

An employee within a time limit and upon compliance with the regulations of the Board, may appeal to the Board from a determination made pursuant to this order by the head of his department or agency, or his designated representative, as the case may be. The Board shall conduct such review of the appeal as it deems appropriate and may require the appearance before it of the appellant and other parties to the grievance; provided, however, that the appellant shall be entitled upon his request to a hearing before the Board or its designee. If the appeal involves the enforcement of a law, a civil service rule or regulation or a written rule, regulation or order of a department or agency, the findings of fact and the recommendation of the Board shall be transmitted to the departments or agencies involved for appropriate action in accordance with the facts found by the Board. In all other cases, the determination of the Board shall contain a statement of the facts and an advisory recommendation to the departments or agencies involved. Copies of the determination of the Board shall be sent to the employee involved, to his representative and to the Director of Employee Relations.

6. **Application**

a. The provisions of this order shall apply to employees in the executive branch of the State government (1) who are not covered by a collective agreement between the State and a certified or recognized employee organization or (2) who are covered by a collective agreement which accords such employees the right to continue to process grievances under this order.

b. The provisions of this order and the procedures established hereunder shall be applicable to grievances in any department or agency claiming an act or omission resulting in an injustice to an employee and arising out of the conditions which are in whole or in part subject to the control of the head of such department or agency and which involve alleged safety or health hazards, unsatisfactory physical facilities, surroundings, materials or equipment, unfair or discriminatory supervisory and disciplinary practice, unjust treatment by fellow workers, unreasonable assignment of working hours or personal time allowances, unfair or unreasonable work quotas, and all other grievances relating to conditions of employment, provided, however, that this order shall not apply to matters which are reviewable under administrative procedures established by law or under the rules of the State Civil Service Commission, or the rules of other departments or agencies having the force and effect of law or rules governing grievances of employees in the professional service of the State University of New York as defined in Section 355-a of the Education Law, or grievances concerning the interpretation, application or claimed violation of a specific term or provision of a collective agreement between the State and an employee organization.

7. **Repeal of Previous Order**
   The Executive Order heretofore issued on August 28, 1963 is hereby revoked and superseded by this executive order. Grievances initiated but not finally resolved prior to the effective date of this order may be continued under the terms of the executive order issued on August 28, 1963.

   Signed: Nelson A. Rockefeller
   Dated: October 14, 1970

Official Compilation of Codes, Rules and Regulations of the State of New York, Title 9, Part 560, "Submission and Settlement of Grievances of State Employees."

Section 560.1 Definition of Terms
Unless otherwise expressly stated or unless the context requires a different meaning, for the purposes of the formal grievance procedures established pursuant to the Executive Order of the Governor of October 14, 1970 [see section 1.1, Part 1, Subtitle A, *supra*]:

a. The term ***executive order*** means the executive order promulgated by Governor Rockefeller on October 14, 1970 relating to procedures for the submission and settlement of certain grievances of certain State employees [see section 1.1, Part 1, Subtitle A, supra].

b. The term ***board*** means the grievance appeals board in the Office of Employee Relations.

c. The term ***grievance*** means a claim or charge of injustice to an employee as defined at section 6 of the executive order.

d. The term ***department or agency*** means any unit of the executive branch of the State government for which the grievance appeals board approves a separate procedure.

e. The term ***employee representative*** means the agent selected subject to the provisions of section 1 of the executive order by the employee to act in his behalf in the processing of a grievance.

f. The term ***immediate supervisor*** means the employee or officer on the next higher level of authority above the employee claiming to be aggrieved in the agency wherein the grievance exists and who normally assigns and reviews the employee's work, approves his time record, or evaluates his work performance by or with the designation or approval of the agency head.

g. The term ***employee*** means an employee in the executive branch of the State government (1) who is not covered by a collectively negotiated agreement (collective agreement) between the State and a certified or recognized employee

organization or (2) who is covered by a collective agreement which accords such employee the right to continue to process grievances under the executive order.

h. The term ***step*** means a level of the procedure at which a decision on the grievance is made.

i. The term ***agency procedure*** means those processes or procedures within the department or agency, established by the department or agency head and approved by the grievance appeals board, by which a grievance is presented and a determination made thereon within the department or agency.

j. The term ***appeal*** means the process or procedure by which an aggrieved employee presents in the next higher step a grievance which has not been disposed of to his satisfaction.

k. The term ***working day*** means the days Monday through Friday excluding holidays.

Section 560.2 Grievances: Procedural Requirements

The head of each State department or agency shall establish formal procedures for submission of grievances by employees or their representatives (subject to the provisions of section 1 of the executive order) and for prompt and orderly consideration and determination of such grievances by supervisors and the department or agency head, subject to the approval of the grievance appeals board. Procedures for such department or agency shall include provision for no more than three procedural steps as follows:

a.

1. **Step 1**: The employee, or his representative, shall present the grievance orally or in writing on forms to be provided by the State to the employee's immediate supervisor or to the department or agency representative at the appropriate local level, not later than 45 calendar days after the date on which the act or omission giving rise to the grievance occurred. The department or agency representative may require the grievant to meet with the grievant's immediate supervisor in an effort to settle the grievance informally. The person receiving the grievance shall take any other steps necessary to ensure that a proper disposition of the grievance is made and shall reply to the employee or his representative orally or in writing on forms to be provided by the State, within five working days following the date of submission.

2. **Step 2**: In the event the employee or his representative wishes to appeal an unsatisfactory decision at step 1, the appeal must be presented in writing, on forms to be provided by the State, within 15 working days of the receipt of the step 1 decision, to the person designated by the department or agency head for such purpose. A copy

of such appeal shall also be sent to the person who passed upon the grievance at step 1. Such appeal shall contain a short, plain statement of the grievance. The person designated to process the appeal at step 2 shall meet with the employee and/or his representative within 20 working days after receipt of the appeal for a review of the grievance and shall issue a written decision to the employee or his representative by the end of the fifteenth working day following the day on which the review was held.

3. **Step 3:** An appeal from an unsatisfactory decision at step 2 shall be presented by the employee or his representative in writing, on forms to be provided by the State, to the department or agency head or his designated representative within 15 working days of the receipt of the step 2 decision. The department or agency head or his duly designated representative shall meet within 20 working days after receipt of the appeal with the employee and/or his representative for a review of the grievance and shall issue a written decision by the end of the twentieth working day following the day on which the step 3 review was held.

4. **Step 4:** An appeal from an unsatisfactory decision at step 3 shall be presented in writing by the employee or his representative within 15 working days of receipt of the step 3 decision to the grievance appeals board. The grievant shall also furnish a copy to the department or agency head. The chairman of the grievance appeals board or his designee within 20 working days of receipt of a request for an appeal of the step 3 decision shall schedule a step 4 review and shall issue a decision in writing to the employee and to his representative within 20 working days after the day on which the review was held or the date the hearing was closed. The appeal to the grievance appeals board shall contain a copy of the decisions at steps 1, 2, and 3, together with all documents which the grievant relies upon in the appeal.

b. Departmental or agency procedures shall provide that the grievance forms provided by the State shall be readily available to all employees. The locations where these forms are available shall be specifically identified.

c. The time limits contained in this section may be extended for a specific grievance by consent of the grievant or his representative and the department or agency. Departments and agencies are authorized, subject to approval by the grievance appeals board, to combine steps 2 and 3 or to vary the time limits in steps 1, 2 and 3 of the grievance steps. The time for presenting a step 1 grievance shall be extended by the time an employee is absent from the job through illness or disability, provided such illness or disability extends for at least 10 calendar days.

d. A settlement or award recommended by the Board may or may not be retroactive as the equities of each case demand, but in no event shall such a resolution be retroactive to a date earlier than 45 days prior to the date the grievance was first presented in accordance with these regulations and the executive order or the date the grievance occurred, whichever is the later date.

e. Failure of the department or agency representative to answer a grievance within the time limit prescribed in any step of the grievance procedure shall permit the employee or his representative to progress the grievance to the next step for decision.

f. Any grievance not appealed by the employee or his representative to the next step of the grievance procedure within the time limit prescribed shall be considered settled on the basis of the last decision and is not subject to further appeal or consideration.

g. Employee information. Each department or agency head shall take such steps as may be necessary to ensure that all employees and supervisors under his jurisdiction may be fully informed of the grievance procedures adopted pursuant to the executive order and of their rights and obligations thereunder.

h. The grievance appeals board shall publish and distribute copies of the executive order, its regulations and other pertinent information to the end that employees shall be informed of their rights under the executive order.

Section 560.3 General Provisions

a.

1. The employee shall identify his representative, if any, to the appropriate State official(s) at all steps, giving name, address and official designation, or if also an employee, his title, official working station and department.

2. A representative who is also a State employee shall notify his supervisor immediately upon learning of his designation, stating the name of the aggrieved and the time and place of the grievance review or discussion.

b. The time and place for the discussion or hearing of grievances within an agency shall, so far as practicable, be mutually agreeable to the appropriate parties, except that in certain restricted employment areas, as in a State hospital or prison, the agency head shall designate the time and place of presentation.

c. Questions concerning the applicability of the executive order to a particular complaint shall be referred directly to the director of employee relations for

determination. A record of all such determinations shall be kept on file in the Office of Employee Relations.

d. An investigation or inquiry required or authorized to be conducted or made, may be conducted or made by any designee or the grievance appeals board.

e. An employee's right to process a grievance shall not be lost to him solely because he has left the department or agency wherein it arose or because he has left the State service, provided such right had fully accrued prior to his separation from the department or agency of its origin and provided further that he could otherwise have prosecuted such grievance but for such separation and provided, further, that he presents his grievance not later than 45 calendar days after the date on which the act or omission giving rise to the grievance occurred.

f. Terminations of the services of probationers pursuant to the Civil Service Law are not reviewable by the grievance appeals board except where the petitioner presents prima facie proof to the board that the decision of the appointing officer may have been arbitrary or capricious. In such cases, the board may:

    1. authorize the processing of the grievance through the agency procedure;

    2. assume original jurisdiction in resolving the grievance.

Section 560.4 Time Off for Processing of Grievances

a. An employee and his representative, if an employee, shall be allowed such time off from his regular duties as may be necessary and reasonable for the processing of a grievance under the procedures adopted pursuant to the executive order without loss of pay or vacation or other time credits.

b. Time shall be granted for the presentation of the grievance at any step or to the grievance appeals board. It shall not include time for preparation of the presentation of a grievance, but shall include reasonable time for discussion between the employee and his representative immediately prior to the designated presentation and such reasonable travel time as may be necessary. An employee shall be permitted to discuss with his representative prior to the initiation of a first-step proceeding any complaint or matter concerning conditions set forth in section 6(b) of the executive order, for the purpose of aiding him in deciding whether he wishes to process the grievance through the agency procedure. If such discussion is to take place during the regular work hours of an employee, whether grievant or his representative, he shall first obtain from his supervisor permission to absent himself from his work and shall advise his supervisor of the name of the grievant or his representative, as the case may be.

c. If any step must be scheduled outside regular working hours or continues beyond regular working hours, the additional time shall not be considered in computing earned overtime nor shall compensatory time off be granted. Insofar as practicable, agencies may reschedule the employee's and/or his representative's working hours to coincide with discussion or meetings scheduled outside regular working hours.

Section 560.5 Construction
Nothing contained in these regulations shall be construed to limit the executive order.

Appendix G: Alcohol and Controlled Substances in the Workplace

Office of Employee Relations' policy memorandum, "Policy on Alcohol and Controlled Substances in the Workplace and Information on the Federal Drug-Free Workplace Act,"

This Office has received inquiries recently from agencies regarding the State's Policy on Alcohol and Controlled Substances in the Workplace, the Federal Drug-Free Workplace Act of 1988 and the Federal Omnibus Transportation Act of 1991. As a result, I am reissuing the original policy memorandum of 1986 on alcohol and controlled substances, last issued in 1994 (OER-94-1), and providing you with information on the Federal Acts. I have also attached a flyer that can be distributed as a means to continue compliance with the requirements of the Federal Drug-Free Workplace Act.

Policy on Alcohol and Controlled Substances in the Workplace
Use and abuse of alcohol and drugs has a detrimental effect on the productivity, attendance, and health of our work force. As a public employer, we must be vigilant to protect the safety and welfare of the public with whom we interact and the employees with whom we work.

The longstanding policy of the State is and has been that employees will be subject to criminal, civil and disciplinary penalties if they distribute, sell, attempt to sell, possess or purchase controlled substances while at the workplace or while performing in a work-related capacity. Such illegal acts, even if engaged in off duty, may result in disciplinary action. In those work locations where it is permitted, an employee may possess and use a controlled substance which is properly prescribed for him or her by a physician.

It has also been the continuing policy of the State that employees are prohibited from on-the-job use of, or impairment from, alcohol or controlled substances. In cases where an appointing authority or a designee has a reasonable suspicion that an employee is not able to perform his or her duties as a result of a disability which may be caused by alcohol or a controlled substance, the appointing authority may proceed under the provisions of Section 72 of the Civil Service Law and require that the employee undergo a medical examination to ascertain the cause of the disability. Where testing for alcohol or a controlled substance occurs, appropriate medical procedures and tests should be utilized to assure accurate and proper results. Confidentiality of the testing process and results is an important aspect of this procedure for any affected employee.

A "reasonable suspicion" must be based upon specific, reliable observation that the appointing authority or designee can articulate concerning the appearance, behavior, speech or body odor of the employee. The following observations may indicate drug or alcohol use: unsteady gait, odor of alcohol on the breath, thick or slurring speech, aggressive or abusive language or behavior, and disorientation or lethargy.

It is also not unreasonable for the appointing authority to consider the employee's time and attendance patterns, such as absences around weekends, pass days or payday,

excessive use of sick leave, excessive lateness and unauthorized absences, on-the-job accidents, difficulty in recalling instructions or conversation, poor relationships with co-workers and supervisors, and other variations in productivity when making a determination as to whether a "reasonable suspicion" that an employee is suffering from a drug- or alcohol-related disability is present.

Such medical examinations may be required under the safeguards of Section 72 of the Civil Service Law for employees who are permanently appointed competitive employees or employees subject to due process before termination. Other State employees who are not entitled to any due process protection before being terminated or placed on involuntary leave may also be required to undergo such a medical examination, if appropriate under the circumstances.

Once a determination is made that an employee is using, is under the influence of, or is not able to perform their duties due to alcohol or a controlled substance, the appointing authority may determine the appropriate action to take. When considering the appropriate action to take, the appointing authority may determine that the affected employee should be disciplined because of the alcohol or drug use. Disciplinary action may be taken pursuant to the procedures contained in the collectively negotiated agreement or the law, as appropriate and required.

On the other hand, the appointing authority may determine that, given the nature of the job and the employee involved, the employee could benefit from the Employee Assistance Program (EAP). In such a case, the employee should be directed to the appropriate EAP coordinator to assist them with whatever problem exists. The Employee Assistance Program is a referral service set up at individual work sites and available to every employee. Should the employee have a drug or alcohol-related problem, EAP would provide the employee with a list of places which treat such conditions.

Where an employee is disabled by alcohol or drug use, the appointing authority may also decide to pursue the available disability leave procedures contained in Section 72 of the Civil Service Law. While employee union representation or concurrence is not required when pursuing Section 72 action, it is suggested that appropriate employee representatives be alerted as to the action contemplated.

An agency which has existing additional policies, procedures or practices which apply to its employees may continue to implement those policies, procedures and practices. The agency involved should notify its OER liaison of them. If an agency believes that a pre-employment or pre-appointment drug test should be utilized, that agency should consult with the Department of Civil Service to determine the job relatedness of such a test or to seek that Department's approval to include it in the required pre-employment or pre-appointment physical.

Federal Drug Free Workplace Act of 1988
The Federal Drug-Free Workplace Act of 1988 included the following requirements for employers receiving federal grants or contracts of over $25,000:

- publish an anti-drug policy statement and provide it to employees
- establish a drug awareness program
- establish as a term and condition of employment that employees report within five days, any criminal convictions for drug-related activity in the workplace
- notify the awarding federal agency of employee convictions
- take personnel actions against workplace substance abuse
- make a good faith effort to comply with the Federal Drug-Free Workplace Act.

As I indicated earlier, attached is a flyer which can be copied and distributed to staff as a means to continue compliance with the requirements of the Act. The flyer includes a message from Governor Pataki as well as information on the State's policy, the Employee Assistance Program and toll-free numbers at which employees can obtain additional information about drugs and alcohol.

I encourage you to continue to use the Drug-Free Workplace training program to prepare supervisors to identify and address alcohol and drug problems. This three-hour program was initially developed in 1990 and agency trainers were prepared to deliver it. The program has been extremely well-received and was recently updated.

In addition, it should be noted that agencies impacted by the Federal Omnibus Transportation Employee Testing Act of 1991 must have their own policies, testing protocols in place, and employees trained as to the provisions of the Act. The Act mandates pre-employment, reasonable suspicion, random and post-accident drug and alcohol testing for employees required to maintain a Commercial Driver's License for their job and who drive vehicles carrying 16 passengers (including the driver) or vehicles weighing in excess of 26,001 pounds. Should you have any questions, please contact your agency liaison in the Office of Employee Relations.

New York State Policy
New York State prohibits on-the-job use of, or impairment from, alcohol and controlled substances. An employee may be required to undergo medical testing if a supervisor has a reasonable suspicion that the employee is unable to perform job duties due to a disability which may be caused by the use of alcohol.

If the cause of the disability is found to be drug or alcohol related, the personnel or employee relations officer, in conjunction with the employee's supervisor, may refer the employee to voluntary and confidential participation in the statewide Employee Assistance Program. Other available options include pursuing disability leave procedures or disciplinary measures.

Violations of the State policy on alcohol and substance abuse in the workplace may be the subject of disciplinary action pursuant to Section 75 of the Civil Service Law or the Disciplinary Articles of collectively negotiated agreements.

State employees are also subject to criminal, civil, and disciplinary penalties for the distribution, possession, sale, or the attempt to sell controlled substances both in the workplace and while performing in a work-related capacity. In work locations where it is permitted, an employee may possess and use medication which is properly prescribed by a physician.

"Controlled substances" refers to the hundreds of chemicals listed in the Controlled Substances Act by the federal government. All so-called "street drugs" (heroin, cocaine, crack, marijuana, speed, acid) are controlled substances.

A person using a prescribed drug under a doctor's supervision is not breaking any law. The use of prescribed drugs without a physician's prescription is illegal.

Addiction to, or misuse of, prescribed drugs could also subject an employee to medical testing under New York State's policy governing alcohol or substance abuse in the workplace.

Employee Assistance Program (EAP)
The New York State Employee Assistance Program is a joint labor-management committee program open to all State employees and their families. The program is a confidential information, assessment and referral program that provides employee requested services. These services include:

- Assessment for referral to the most appropriate community resource provider for services related to emotional or physical illnesses, alcohol and other drug-related problems;
- Assistance with family-related problems;
- Advocacy, assistance and intervention with health insurance;
- Information on resources for issues such as child care, eldercare, legal, and financial support services;
- Workplace health and prevention programs;
- Workplace educational preventive, wellness programs.

Any State employee may contact NYS EAP by calling 1-800-822-0244.

Appendix H: Paid Family Leave

Benefits -- Time

Paid Family Leave benefits phase in over four years. Eligible employees can take Paid Family Leave for up to eight weeks in 2018, with coverage increasing to 10 weeks in 2019 and 2020, and 12 weeks in 2021. Leave can be taken either all at once or in full-day increments. You may take the maximum time-off benefit in any given 52-week period. You cannot take Paid Family Leave in partial day increments. You cannot charge accruals on a day when you take Paid Family Leave.

Benefits -- Pay

Paid Family Leave pay benefits also phase in over four years. Benefits are a percentage of your average weekly wage, capped at that same percentage of the New York State Average Weekly Wage, as calculated annually by New York State's Department of Labor. These benefits are 50% of your average weekly wage for 2018, 55% in 2019, 60% in 2020, and 67% in 2021.

Funding

Paid Family Leave is funded through a small weekly payroll deduction, which is a percentage of your weekly wage up to a cap set annually.

The 2018 payroll contribution is 0.126% of your weekly wage and is capped at an annual maximum of $85.56. If you earn less than the New York State Average Weekly Wage ($1,305.92 per week), you will have an annual contribution amount less than the cap of $85.56, consistent with your actual weekly wages.

For example, in 2018, if you earn $27,000 a year ($519 a week), you will pay 65 cents per week.

Your Rights and Protections

- You have **job protection**, ensuring you can return to the same job (or a comparable one) when you return from Paid Family Leave.
- You can keep your **health insurance** while on leave. If you contribute to the cost of your health insurance, you must continue to pay your portion of the cost while on leave.
- Your employer is **prohibited from discriminating** or **retaliating** against you for requesting or taking Paid Family Leave.
- **You do not have to take all of your sick and/or vacation time** before using Paid Family Leave.

For information on applying for and taking Paid Family Leave, please go to https://cs.ny.gov/pfl and refer to the *Apply for Paid Family Benefits* section. Request forms, the request submission process, and additional information on the Paid Family Leave benefits such as the Department of Civil Service policy bulletin on Paid Family Leave can be found on that website as well.

Discrimination Complaints
Employees are protected from discrimination and retaliation for requesting or taking Paid Family Leave.

If your employer terminates your employment, reduces your pay and/or benefits, or disciplines you in any way as a result of you requesting or taking Paid Family Leave, send your agency's personnel office a formal request for job reinstatement using the ***Formal Request For Reinstatement Regarding Paid Family Leave (Form PFL-DC-119)***, which can be found in the forms section of https://ny.gov/PaidFamilyLeave
Also, send a copy to:

Paid Family Leave
P O Box 9030
Endicott, New York 13761-9030

If your employer fails to comply with the request for reinstatement within 30 days, you have the right to a hearing with the **Workers' Compensation Board using the Paid Family Leave Discrimination/Retaliation Complaint (Form PFL-DC-120),** which is also available on the Paid Family Leave website. Once your complaint is received, the Board will assemble your case and reach out to you to schedule a hearing within 45 calendar days. NOTE: To file a complaint, you must have first requested reinstatement as described above.

An administrative law judge may order an employer to reinstate you, pay any lost wages, pay attorney's fees, and pay up to $500 in penalties.

In addition to protections under Workers' Compensation Law, in certain situations an employee may have claims under the New York Human Rights Law. The New York Human Rights law makes it illegal for employers to discriminate against employees based on certain protected grounds, including but not limited to, sexual orientation, sex, age, marital status, pregnancy-related conditions, or familial status. For more information, please visit the Division of Human Rights website at: https://dhr.ny.gov/complaint#howto.

For more information on Paid Family Leave,
please visit https://ny.gov/PaidFamilyLeave or contact your agency's personnel office.

Appendix I: Sexual Harassment

See, Equal Employment Opportunity Rights and Responsibilities – A Handbook for Employees of New York State Agencies.

Appendix J: Sexual Orientation

See, Equal Employment Opportunity Rights and Responsibilities – A Handbook for Employees of New York State Agencies.

Appendix K: Age Discrimination

See, Equal Employment Opportunity Rights and Responsibilities – A Handbook for Employees of New York State Agencies.