

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
Case No: IA-2022-005
IRA CURE, INTEREST ARBITRATOR

In the Matter of the Interest Arbitration between:

STATE OF NEW JERSEY,

PUBLIC EMPLOYER

and

NEW JERSEY SUPERIOR OFFICERS LAW ENFORCEMENT ASSOCIATION

EMPLOYEE ORGANIZATION

**INTEREST ARBITRATION
DECISION AND AWARD**

APPEARANCES

For the Employee Organization:

Kevin D. Jarvis, Esq.
O'Brien, Belland and Bushinsky, LLC

For the Public Employer:

Joseph M. Hannon, Esq.
Genova Burns, L.L.C.

I. PROCEDURAL BACKGROUND

On November 4, 2021, the New Jersey Superior Officers Law Enforcement Association (“Association”) filed a Petition to Initiate Compulsory Interest Arbitration (“Petition”) with New Jersey’s Public Employment Relations Commission (“PERC”). By filing the Petition, the Association asked PERC to appoint an interest arbitrator pursuant to Police and Fire Interest Arbitration Reform Act, *N.J.S.A. 34:13-16(e)(1)* to issue an award concerning a successor collective negotiation agreement. (“Contract”) with the State of New Jersey (“State”). The previous Contract expired on June 30, 2019. The Association represents employees in the following titles: Conservation Officer 1, Correction Lieutenant, Correction Lieutenant JJC, District Parole Supervisor, Lieutenant Campus Police, Police Lieutenant Health Care Faculty, Police Lieutenant Palisades Interstate Parkway, State Park Police Lieutenant, Supervising Inspector Alcoholic Beverage Control, Supervising Special Agent, Supervisor of Enforcement Weights and Measures, Supervisor Lumber Inspections Weights and Measures, and Supervisor Technical Services Weights and Measures. On January 18, 2022, I was appointed to serve as interest arbitrator.

Pursuant to *N.J.S.A. 34:13-16(b)(3)*, on February 4, 2022, I conducted a mediation session with the parties in order to “effect a voluntary resolution of the impasse.” At the conclusion of the mediation session, it was determined that the impasse should proceed to interest arbitration. The parties’ final offers were transmitted to me on March 7, 2022. I conducted arbitration hearings on March 15, 2022, and March 16, 2022. The hearings took place on the campus of Thomas Edison State University in Trenton, New Jersey.

Prior to the commencement of the hearing, the State moved to preclude consideration of Association proposals six, seven and ten. The motion was denied on the record on March 15, 2022. (Tr. Vol. 1 p. 8).

The Association offered the testimony of: (1) Association Vice-President Lance Crenny ("Crenny"); and (2) expert witness Timothy Piotrowski, CPA ("Piotrowski") of the firm of Petrucelli, Piotrowski and Company. The State offered the testimony of: (1) the Director of the Governor's Office of Employee Relations Kristina Chubenko ("Chubenko"); (2) Employee Relations Coordinator from the Governor's Office of Employee Relations Camille Warner ("Warner") and 3) Acting Director of the State's Office of Management and Budget Lynn Azarchi ("Azarchi").

Kevin D. Jarvis, Esq. of the firm of O'Brien, Belland and Bushinsky, LLC. represented the Association. Joseph M. Hannon, Esq. of the firm of Genova Burns, L.L.C. represented the State.

Both parties were afforded a full opportunity to examine and cross-examine witnesses, submit evidence, and present arguments in support of their respective positions. On March 23, 2022, Counsel for the Association wrote to inform me of legislation affecting a related bargaining unit, and I received that letter over the objection of the State. Both parties submitted briefs by March 29, 2022, and the record was closed at that time. The evidence adduced and the positions and arguments set forth by the parties have been fully considered in preparation and issuance of this Interest Arbitration Decision and Award¹.

¹ The strict time constraints under the law do not permit me to provide an exhaustive summary of the evidence presented. However, the parties submissions have been thoroughly reviewed in rendering this Award.

I. PROPOSALS

A. FINAL ASSOCIATION PROPOSALS

The Association presented the following final offers referenced below for my consideration:

1. **Article XLV – Term of Agreement** – July 1, 2019 through June 30, 2023 (4-year Agreement);
2. **Article XIII, §B. 1. – Compensation Adjustment** – retroactive wage adjustments for all eligible employees in the unit as of the date of the adjustment²:
 - a. July 1, 2019 – 3.0%;
 - b. July 1, 2020 – 3.0%;
 - c. July 1, 2021 – 4.0%; and
 - d. July 1, 2022 – 5.0%
3. **Article XIII, §B. 2.c.** – Add the following sentences to the end of c. – “Further, it is expressly agreed that all increments shall continue to be paid until a successor agreement is reached between the parties. The parties will apply the dynamic status quo.”;
4. **Article XXXV, §§A. 1. and B. 1., 2. and 3.** – remove references to P.L. 2011, c. 78 and replace §B. 1., 2., and 3. with the following³: “Effective July 1, 2019, or as soon thereafter as possible, all employees covered under this agreement shall be required to contribute 1.5% of base salary for health care benefits coverage. The 1.5% contribution shall remain in effect for the remainder of the agreement.”;
5. **Article XXXVI – Uniform Allowance** – See Attachment 1;
6. **Article XV, §A. – Holidays** – add “Juneteenth” to the list of Holidays;
7. **Article XIX, §D. – Compensatory Time Off** – Modify the provisions of this section to increase the maximum amount of compensatory time which may be carried by employees covered under this agreement from 100 hours to 200 hours;
8. **Article X, §E. 4. – Grievance Time Limits and Management Responses** – Amend the language of this section as follows: “Should a grievance not be satisfactorily resolved, or should the employer not respond within the prescribed time periods, either

² The Union intends this language to apply to negotiating unit members who are no longer in the negotiating unit (whether due to discharge, resignation, retirement, etc.) but who were as of the date on which the increase is to be retroactively applied.

³ The Union intends this language to apply to negotiating unit members who are no longer in the negotiating unit (whether due to discharge, resignation, retirement, etc.) but who were as of the date on which the change is to be retroactively applied.

after initial receipt of the grievance or after a hearing, the grievance **shall automatically be appealed** ~~may be appealed within five (5) working days~~ to the next step **for Steps 1 and 2**. The lack of response by the State within the prescribed time periods, unless time periods have been extended by mutual agreement, should be construed as a negative response.”;

9. Article XIII, §B. 3. – Salary Upon Promotions – delete and replace the existing language with the following language: “Effective as soon as practicable following ratification of this Agreement, any employee who is promoted to any job title represented by NJSOA shall receive a salary increase in accordance with N.J.A.C. 4A:3-4.9.”

10. Article XVII, §D – Administrative Leave – delete and replace the existing language with the following language: “Any leave that is not utilized in the calendar year, shall be converted to compensatory time on an hour-for-hour basis.”

NJSOA’s Final Proposal Includes All TAs⁴ Signed By the Parties During Negotiations:

11. Article IV – Non-Discrimination – TA’d on 5/1/19 by the State and 5/11/19 by the Union (attached);

12. Article VI – Dues Deduction – TA’d on 5/1/19 by both parties (attached);

13. Article VII, §A. 3. – Association Rights - Access to Premises - TA’d on 5/1/19 by both parties (attached);

14. Article VIII, §C – Access to Personnel Folders and Evaluations - TA’d on 5/1/19 by both parties (attached);

15. Article VIII, §E – Access to Personnel Folders and Evaluations - TA’d on 5/1/19 by both parties (attached);

16. Article XIII, §A. 2. – Salary Compensation Plan and Program - Administration - TA’d on 5/1/19 by both parties (attached);

17. Article XX, §E. 1. – Sick Leave – Sick Leave While on Vacation - TA’d on 5/1/19 by both parties (attached);

18. Article XXV, §D – Leave for Association Activity - TA’d on 5/28/19 by both parties (attached);

19. Side Letter of Agreement – Reciprocal Procedure - TA’d on 5/28/19 by both parties (attached).

⁴ The Union requests that all TA’d terms be incorporated into the Award.

ATTACHMENT 1⁵

ARTICLE XXXII Uniform Allowance

All eligible employees who are required to wear uniforms for work during any portion of any year during the term of this Agreement who are or were in the unit as of the date of the uniform allowance listed below regardless of pay status shall receive a retroactive uniform allowance, with the exception of Parole, as follows:

- \$917.50 in July 2019 to those employees with at least one (1) year of service as of June 30, 2019;
- \$1,100.00 in January 2020 to those employees with at least one (1) year of service as of December 31, 2019;
- \$1,100.00 in July 2020 to those employees with at least one (1) year of service as of June 30, 2020;
- \$1,100.00 in January 2021 to those employees with at least one (1) year of service as of December 31, 2020;
- \$1,100.00 in July 2021 to those employees with at least one (1) year of service as of June 30, 2021;
- \$1,100.00 in January 2022 to those employees with at least one (1) year of service as of December 31, 2021;
- \$1,100.00 in July 2022 to those employees with at least one (1) year of service as of June 30, 2022; and
- \$1,100.00 in January 2023 to those employees with at least one (1) year of service as of December 31, 2022.

All unit members in Parole who are required to wear uniforms for work during any portion of any year during the term of this Agreement who are or were in the unit as of the date of the uniform allowance listed below regardless of pay status shall receive a retroactive uniform allowance as follows:

- \$850.00 in July 2021 to those employees with at least one (1) year of service as of June 30, 2021;
- \$850.00 in January 2022 to those employees with at least one (1) year of service as of December 31, 2021;
- \$920.00 in July 2022 to those employees with at least one (1) year of

⁵ References to attachments refer to the final Contract document.

service as of June 30, 2022;

- \$920.00 in January 2023 to those employees with at least one (1) year of service as of December 30, 2022.

Effective for the Uniform Allowance payable in January 2022 and each January thereafter, employees that did not report to work for more than six full pay periods during the first thirteen pay periods of the Fiscal Year shall not receive a Uniform Allowance payment in January. Effective for the Uniform Allowance payable in July 2021 and each July thereafter, employees who did not report to work for more than six full pay periods during the second thirteen pay periods of the Fiscal Year shall not receive a Uniform Allowance payment in July. Notwithstanding the foregoing, for any full pay period during which an employee was unable to report to work due to: (a) having tested positive for COVID-19; (b) due to the need to quarantine because of having close contact with someone that tested positive for COVID-19; (c) being on a leave of absence while receiving Workers' Compensation benefits due to a work-related injury or illness; or (d) being on a leave of absence related to pregnancy, said time away from work shall not count against the employee for purposes of determining eligibility for the Uniform Allowance set forth above. Instead, the employee will be deemed to have reported to work during that pay period. References to COVID-19 in this paragraph in relation to eligibility requirements shall expire as of June 30, 2023.

It is understood that employees who are promoted to any of the titles in this unit and who had been issued a uniform at another rank which is still the appropriate uniform, will only be issued a new insignia and/or badge as required by the appointing authority.

It is understood that the above cash payments are to be used for items of uniform or their maintenance and that all employees in the unit are expected to meet prescribed standards and regulations concerning individual items of uniform which are required and the reasonable standards of maintenance of such uniforms.

No allowance will be paid to employees who are not required to purchase a uniform and wear it for work. In the event additional employees are required to purchase and wear uniforms for work, the term of this Agreement, the State agrees to negotiate with the union the appropriateness of a uniform maintenance allowance for the affected employees.

B. FINAL STATE PROPOSALS

The State of New Jersey presented the following final offers referenced below for my consideration:

A. Economic

1. Term of Agreement: July 1, 2019 through June 30, 2023 (4-year Agreement).
2. Salary Increases: Across-the-board salary increases to all employees employed by the State as of the date of ratification:

- a. Effective retroactive to the first pay period following October 1, 2019: 2.00%
 - b. Effective retroactive to the first pay period following July 1, 2021: 2.00%
 - c. Effective first pay period following December 1, 2021: 2.00%
 - d. Effective first pay period following July 1, 2022: 2.00%
3. Salary Increments: Increments for those not at top step shall continue to provide on their anniversary dates to eligible employees in accordance with the State Compensation Plan after expiration of the Agreement.
4. Article XXXVII, Health Benefits: Delete current Article and Replace with revised Article XXXVII as set forth in Attachment 1:

ATTACHMENT 1

HEALTH BENEFITS LANGUAGE

ARTICLE XXXVII

Fringe Benefits

A. State Health Benefits Program

As with any provisions of this Agreement that reflect statutory or regulatory mandates, the provisions of paragraphs (A)(B)(C) and (G) of this Article, are for informational purposes only and provide an explanation which is subject to change due to legislative action.

1. The State Health Benefits Program is applicable to employees covered by this Contract. It is agreed that, as part of that program, the State shall continue the Prescription Drug Benefit Program during the period of this Agreement to the extent it is established and/or modified by the State Health Benefits Plan Design Committee, in accordance with P.L. 2011, c. 78. The State Health Benefits Plan Design Committee shall provide to employees the option to select one of at least three levels of coverage each for family, individual, individual and spouse and individual and dependent, or equivalent categories, for each plan offered by the program differentiated by out-of-pocket costs to employees including co-payments and deductibles. Pursuant to P.L. 2011, c. 78, the State Health Benefits Plan Design Committee has the sole discretion to set the amounts for maximums, co-pays, deductibles, and other such participants' costs for all plans in the program and has the sole discretion to determine the plan offering and coverage levels under the program.
2. Effective July 1, 2003, the Traditional Plan shall be closed as to all current and future members of this bargaining unit, including unit members retiring after said

date. The Traditional Plan and the NJ Plus POS Plan have been abolished. Effective immediately, no new hires shall be enrolled in the Traditional Plan.

3. Medicare Reimbursement – Effective January 1, 1996, consistent with law, the State will no longer reimburse active employees or their spouses for Medicare Part B premium payments.
4. As soon as practical after ratification, the new NJ Direct plan (available to employees hired prior to July 1, 2019) and NJ Direct 2019 plan (available employees hired on or after July 1, 2019) will be the only PPO Plan available to active negotiations unit members.

B. Contributions Towards Health and Prescription Benefits

1. Employees shall contribute, through the withholding of the contribution from the pay, salary, or other compensation, toward the cost of the health care benefits coverage for the employee and any dependent provided under NJ Direct and NJ Direct 2019 through the State Health Benefits Program in an amount that is a percent of salary to the cost of the premium:
 - Active members participating in an HMO plan or High Deductible Plan (HDHP) will contribute a percentage of premium.
 - Active members participating in a Tiered Network plan shall contribute at a rate that is equal to 75% of the new PPO plan contribution rate.
 - The contribution rates for available plans may be found on the Division of Pension and Benefits website.
2. Effective for benefits plan year starting January 1, 2021, the employee contribution amounts are subject to the agreed upon reopener provisions as set forth in Appendix IV. The parties recognize that any agreements by the parties reached during the reopener discussions regarding plan design are subject to the approval of an implementation by the Plan Design Committee.
3. The amount payable by any employee, pursuant to N.J.S.A. 52:14-17.28(c)(2) (added by L. 2010, c.2) shall not under any circumstance be less than the 1.5 percent of the base salary. No employee shall contribute more than the employee would have contributed under section 39 of P.L. 2011 c. 78 (C. 52:14-17.28c)
4. The parties agree that should an employee voluntarily waive all coverage under the State Health Benefits Plan and provide a certification to the State that he/she has other health insurance coverage, the State will waive the contribution for the employee.
5. An employee on leave without pay who receives health and prescription drug benefits provided by the State Health Benefits Program shall be required to pay the above-outlined contributions and shall be billed by the State for these contributions. Health and prescription benefit coverage will cease if the employee

fails to make timely payment of these contributions.

6. Active employees will be able to use pre-tax dollars to pay contributions to health benefits under a Section 125 premium conversion option. All contributions will be by deductions from pay.
7. Eligible negotiations unit employees and their spouses who complete the NJ Well Program shall each receive a \$350 incentive.

C. Dental Care Program

1. It is agreed that the State shall continue the Dental Care Program during the period of this Agreement to the extent it is established and/or modified by the State Health Benefits Plan Design Committee, in accordance with P.L. 2011, c. 78. Through December 31, 2011, active eligible employees are able to participate in the Dental Care Program as described in the parties' July 1, 2007 – June 30, 2011 collective negotiations agreement. Pursuant to P.L. 2011, c. 78, the State Health Benefits Plan Design Committee has sole discretion to set the amounts for maximums, co-pays, deductibles, and other such participant costs for all plans in the program and has the sole discretion to determine the plan design, plan offering and coverage levels under the program.
2. Participation in the Program shall be voluntary with a condition of participation being that each participating employee authorize a bi-weekly salary deduction as set by the State Health Benefits Design Committee not to exceed fifty percent (50%) of the cost of the type of coverage elected, e.g., individual employee only, husband and wife, parent and child or family coverage.
3. Each employee shall be provided with a brochure describing the details of the Program, enrollment information and the required forms.
4. Participating employees shall be provided with an identification card to be utilized when covered dental care is required.

The provisions of Sections (A), (B) and (C) of this Article are for informational purposes only and are not subject to the contractual grievance/arbitration provisions of Article XI.

D. Eye Care Program

1. Full-time employees and eligible dependents shall be eligible for the State-administered Eye Care Program. The Program shall provide for each eligible employee and dependent to receive a \$40 payment for prescription eyeglasses with regular lenses and a \$45 payment for such glasses with bi-focal lenses. Each eligible employee and dependent may receive only one (1) payment during the two (2) year period ending June 30, 2021 and only 1 payment during the two (2) year

period commencing July 1, 2021. The extension of benefits to dependents shall be effective only after the employee has been continuously employed for a minimum of sixty (60) days.

2. Eligible dependents of full-time employees shall be eligible for a maximum payment of \$35 or the non-reimbursed cost whichever is less, of an eye examination by an Ophthalmologist or Optometrist, during the two (2) year period ending June 30, 2021 and only one payment during the two (2) year period commencing July 1, 2021.
3. Proper affidavits or forms and submissions of receipts are required of the member in order to receive payment.

E. Insurance Savings Program

Subject to any condition imposed by the insurer, all employees shall have the opportunity to voluntarily purchase various insurance policies on a group participation basis. The policy costs are to be borne entirely by the employee selecting insurance coverage provided in the program. The State will provide a payroll deduction procedure whereby authorized monies may be withheld from the earned salary of such employees and remitted to the insurance company. The insurance company will provide information concerning risk covered, service offered, and all other aspects of the program to each interested employee.

F. Health Insurance For Retirees

Those employees who have 20 or more years of creditable service on the effective date of P.L. 2011, c. 78 who accrue 25 years of pension credit or retire on a disability retirement on or after July 1, 2011 will contribute 1.5% of the monthly retirement allowance toward the cost of post-retirement medical benefits as is required under law. In accordance with P.L. 2011, c. 78 the Retiree Wellness Program no longer applies.

Upon retirement, an active employee who is not Medicare eligible and who retires with 25 years of pensionable service after the enrollment date established in accordance with Section A4 of this Article shall be offered the option to enroll in the NJ Direct/NJ Direct 2019 plan at the time of retirement.

a. Current retirees and active employees who have accrued 25 years of pensionable service prior to the enrollment date established in accordance with Section A4 of this Article shall be offered the same plans in retirement as available at the time s/he acquired 25 years of pensionable service, as required by law and shall also be offered the option to enroll in the NJ Direct/NJ Direct 19 PPO plan based on the contribution rate required at the time s/he reached 25 years of service.

b. If an employee acquires 25 years of pensionable service after the enrollment date established in accordance with Section A4 of this Article, that employee shall contribute to the cost of health benefits in retirement based on the contribution rates of active employees, as established by this agreement, at the time of the retirement. Such employee shall have access to the plans available at the time s/he acquired 25 years of pensionable service.

The provisions of this Article are for informational purposes only and are not subject to the contractual grievance/arbitration provisions of Article X.

H. Temporary Disability Plan

All employees in this unit are covered under the State of New Jersey Temporary Disability Plan. This is a shared cost plan, which provides payments to employees who are unable to work as the result of non-work connected illness or injury and who have exhausted their accumulated sick leave.

I. Deferred Compensation Plan

It is understood that the State shall continue the program which will permit eligible employees in this negotiating unit to voluntarily authorize deferment of a portion of their earned base salary so that the funds deferred can be placed in an Internal Revenue Service approved Federal Income Tax exempt investment plan. The deferred income so invested, and the interest or other income return on the investment are intended to be exempt from current Federal Income Taxation until the individual employee withdraws or otherwise receives such funds as provided in the plan

It is understood that the State shall be solely responsible for the administration of the plan and the determination of policies, conditions and regulations governing its implementation and use. The State shall provide literature describing the plan as well as a required enrollment or other forms to all employees. It is further understood that the maximum amount of deferrable income under this plan shall be consistent with the amount allowable by law.

Appendix IV - Health Care Reopener (NEW)

1. The actual premium cost for the new PPO plans, inclusive of medical and prescription costs, will be tracked each plan year following the plan's initial offering in plan year 2019.
2. In addition, the new PPO premium cost increases will be monitored and compared to the national, regional and state trending of healthcare costs.
3. Calculations:
 - a. If the projected blended premium for the new PPO in a plan year exceeds the "Baseline Premium", the Union and the State shall enter into negotiations to lower

the premium and/or reduce the rate of premium increases. Such negotiations will commence upon receipt of the SHBP actuary's rate renewal recommendation premium for the upcoming plan year, in or about the preceding July.

- b. The Union and the State shall also calculate the "Adjusted Premium Increase" ("API"). The API shall be calculated by (a) subtracting the aggregate percent of across-the-board salary increases received by represented State employees covered by this contract, not compounded, from (b) the percent by which the 2019 PPO premium exceeds the Preliminary Baseline Premium.
- c. Commencing in Plan Year 2019, the preliminary baseline premium rates shall be the following blended premiums – Single coverage - \$9570; Parent/Child coverage - \$19,140; Employee/Spouse - \$17,800; and Family \$27,370 – plus 3% ("Preliminary Baseline Premium").

Plan Year 2021:

- a. If the projected blended premium for the new PPO plans in plan year **2021** exceeds the Preliminary Baseline Premium from plan year 2019, the Union and the State shall enter into negotiations to address such premium increases.
- b. The API for Plan Year 2021 shall be calculated by (a) subtracting the aggregate percent of across-the-board salary increases received by represented State employees covered by this contract, between July 1, 2019 and December 31, **2020**, not compounded, from (b) the percent by which the new PPO premium exceeds the Preliminary Baseline Premium. For example, if the **2021** PPO premium is 8% more than the Preliminary Baseline Premium and if employees have received an aggregate of 6%, non-compounded, across-the-board salary increases since July 1, 2019, the API is 2%.
- c. If the Union and the State cannot agree upon plan design changes or other cost-saving measures that would reduce the API to at least a 0% increase over the Preliminary Baseline Premium by the September 1 preceding the start of the **2021** plan year, then an Escalator shall be applied to employee contribution rates. The Escalator to be applied to employee contribution rates shall be the percentage by which the API exceeds the Preliminary Baseline Premium. For example, if the API is 2%, then the Escalator is also 2%, which is applied to the employee's contribution rate. If an employee's contribution rate is 5% of base salary, then by applying the Escalator, the contribution rate will increase to 5.1% of base salary. Any increase in employee contributions will be effective the first pay period of the **2021** plan year.
- d. If the 2021 premium is below the Preliminary Baseline Premium by 6% or more, the Union and the State shall discuss options to share the savings in reduced costs or to improve the quality of the new PPO plans through design changes or other measures. If the Union and the State do not agree to either reduce costs or improve the quality of the new PPO plans or agree upon a reduction in the employee

contribution rates by September 1 preceding the start of the plan year, then contribution rates shall be reduced by the application of a De-escalator. The De-escalator shall be the amount of the decrease in the new PPO 2020 premium below 6% of the Preliminary Baseline Premium. For example, if the 2021 premium is 6.5% below the Preliminary Baseline Premium, employee contribution rates shall be reduced by 0.5%. If an employee's contribution rate is 5% of base salary, then by applying the De-escalator the employee's new contribution rate shall be 4.975%. Any decrease in employee contributions will be effective the first pay period of the 2021 plan year.

Plan Year 2022

- a. **The Baseline Premium for 2022 plan year shall be** the baseline premium is the PPO Plan's premium cost in plan year **2021 plus 1%**.
 - b. If the projected blended premium for the PPO in plan year **2022** exceeds the new Baseline Premium, the Union and the State shall enter into negotiations to address such premium increases.
 - c. The API shall be calculated by (a) subtracting the aggregate percent of across-the-board salary increases received by represented State employees covered by this contract, **between July 1, 2021 and December 31, 2021**, not compounded, from (b) the percent by which the PPO premium exceeds the 2022 Baseline Premium.
 - d. If the Union and the State cannot agree upon plan design changes or other cost-saving measures that would reduce the API to at least a 0% increase over the Preliminary Baseline Premium by the September 1 preceding the start of the **2022** plan year, then an Escalator shall be applied to employee contribution rates. The Escalator to be applied to employee contribution rates shall be the percentage by which the API exceeds the Preliminary Baseline Premium. Any increase in employee contributions will be effective the first pay period of the **2022** plan year.
 - e. Each subsequent plan year's PPO Plan's premium cost will be compared with previous year's PPO Plan's premium cost which will become the new Baseline Premium. The same process and methodology shall be used to review, and if necessary, adjust, employee contributions rates, every year thereafter.
4. Article XXXII, Uniform Allowance: Delete current Article and Replace with revised Article XXXII as set forth in Attachment 2:

ATTACHMENT 2

ARTICLE XXXII

Uniform Allowance

All Department of Corrections employees in the unit shall receive a uniform allowance, with the exception of Parole, as follows:

- \$917.50 in July 2019 to those employees with at least one (1) year of service as of June 30, 2019;
- \$1,100.00 in January 2020 to those employees with at least one (1) year of service as of December 31, 2019;
- \$1,100.00 in July 2020 to those employees with at least one (1) year of service as of June 30, 2020;
- \$1,100.00 in January 2021 to those employees with at least one (1) year of service as of December 31, 2020;
- \$1,100.00 in July 2021 to those employees with at least one (1) year of service as of June 30, 2021;
- \$1,100.00 in January 2022 to those employees with at least one (1) year of service as of December 31, 2021;
- \$1,100.00 in July 2022 to those employees with at least one (1) year of service as of June 30, 2022; and
- \$1,100.00 in January 2023 to those employees with at least one (1) year of service as of December 31, 2022.

Parole: No allowance will be paid to employees who are not required to purchase a uniform and wear it for work. Accordingly, as of ratification of this Agreement, unit members working in Parole are not eligible for a uniform allowance. In the event Parole employees are required to wear uniforms for work during any portion of any year for the term of this Agreement, the State agrees to a uniform maintenance allowance for the affected employees as follows:

- Should employees be required to wear a uniform anytime between January 1, 2021 and June 30, 2021, each employee shall receive \$850.00 in July 2021. Only those employees with at least one (1) year of service as of June 30, 2021 shall be entitled to this payment;
- Should employees be required to wear a uniform anytime between July 1, 2021 and December 31, 2021, each employee shall receive \$850.00 in January 2022. Only those employees with at least one (1) year of service as of December 31, 2021 shall be entitled to this payment;
- Should employees be required to wear a uniform anytime between January 1, 2022 and June 30, 2022, each employee shall receive \$920.00 in July 2022. Only those employees with at least one (1) year of service as of June 30, 2022 shall be entitled to this payment;
- Should employees be required to wear a uniform anytime between July 1, 2022 and December 30, 2022, each employee shall receive \$920.00 in January 2023. Only those employees with at least one (1) year of service as of December 30, 2022 shall be entitled to this payment.

Subsequent to a Uniform Policy being put in place that requires payment of a uniform allowance, should the State Parole Board in its sole discretion determine it will no longer require State Parole Board employees to wear a uniform, then the obligation to pay the above uniform allowance shall cease.

All Others:

Except for officers at the rank of lieutenant in the Department of Corrections and Division of Parole, the State agrees to a uniform maintenance allowance for officers at the rank of lieutenant who are required to wear uniforms for work during any portion of any year during the term of this Agreement as follows:

Should employees be required to wear a uniform anytime between January 1, 2019 and December 31, 2019, each employee shall receive \$1,535 in January 2020. Only those employees with at least one (1) year of service as of December 31, 2019 shall be entitled to this payment;

- Should employees be required to wear a uniform anytime between January 1, 2020 and December 31, 2020, each employee shall receive \$1,535.00 in January 2021. Only those employees with at least one (1) year of service as of December 31, 2021 shall be entitled to this payment;
- Should employees be required to wear a uniform anytime between January 1, 2021 and December 31, 2021, each employee shall receive \$1,700.00 in January 2022. Only those employees with at least one (1) year of service as of December 31, 2021 shall be entitled to this payment;
- Should employees be required to wear a uniform anytime between January 1, 2022 and December 30, 2022 each employee shall receive \$1,840.00 in January 2023. Only those employees with at least one (1) year of service as of December 31, 2022 shall be entitled to this payment.

Effective for the Uniform Allowance payable in January 2022 and each January thereafter, employees that did not report to work for more than six full pay periods during the first thirteen pay periods of the Fiscal Year shall not receive a Uniform Allowance payment in January. Effective for the Uniform Allowance payable in July 2021 and each July thereafter, employees who did not report to work for more than six full pay periods during the second thirteen pay periods of the Fiscal Year shall not receive a Uniform Allowance payment in July. Notwithstanding the foregoing, for any full pay period during which an employee was unable to report to work due to: (a) having tested positive for COVID-19, (b) due to the need to quarantine because of having close contact with someone that tested positive for COVID-19, or (c) being on a leave of absence while receiving Workers Compensation benefits due to a work-related injury or illness, said time away from work shall not count against the employee for purposes of determining eligibility for the Uniform Allowance set forth above. Instead, the employee will be deemed to have reported to work during that pay period. References to COVID-19 in this paragraph in relation to eligibility requirements shall expire as of June 30, 2023.

It is understood that employees who are promoted to any of the titles in this unit and who had been issued a uniform at another rank which is still the appropriate uniform, will only be issued a new insignia and/or badge as required by the appointing authority.

It is understood that the above cash payments are to be used for items of uniform or their maintenance and that all employees in the unit are expected to meet prescribed standards and regulations concerning individual items of uniform which are required and the reasonable standards of maintenance of such uniforms.

No allowance will be paid to employees who are not required to purchase a uniform and wear it for work. In the event additional employees are required to purchase and wear uniforms for work, the term of this Agreement, the State agrees to negotiate with the union the appropriateness of a uniform maintenance allowance for the affected employees.

B. Non-Economic

6. Article VII, Access to Premises: Revise Section A to include a New Paragraph 5:

"The Association shall have the right to use the State's email systems to communicate with negotiations unit members regarding collective negotiations, the administration of this Agreement, the investigation of grievances, other workplace related complaints and issues, and internal Association matters involving the governance or business of the Association. The Association's use of the State email system shall comply with all applicable laws, regulations, work rules, and policies. The State shall not be responsible for the Association's use of the State's email system."

7. Article X, Grievance Procedure: Revise Section E as follows:

Paragraph 1: Revise paragraph 1 to state as follows:

"A grievance must be filed initially in writing within fifteen (15) calendar days from the date on which the act which is the subject of the grievance occurred or fifteen (15) calendar days from the date on which either the grievant or the Association should reasonably have known of its occurrence. Other All references to days in this process are working calendar days of the party to which they apply. Any grievance that is not timely filed in accordance with this time limit shall be null and void.

Paragraph 3: Revise paragraph 3 to state as follows:

"Decisions after a scheduled step one conference or after a step two hearing shall be rendered in writing to the grievant

and the Association representative within the established time limits, except that the decision will be considered timely if rendered within the following limits or within three (3) days after the conclusion of the hearing at Step one and fifteen (15) days after the conclusion of the hearing at Step Two whichever is later. The decision will be considered timely if rendered within the following time limits:

a. at Step One, within ten (10) working fourteen (14) calendar days of the receipt of the grievance;

b. at Step Two, within twenty-one (21) working calendar days of the receipt of the appeal from the Step One decision.

Paragraph 4: Revise paragraph 4 to state as follows:

"Should a grievance not be satisfactorily resolved, or should the employer not respond within the prescribed time periods, either after the initial receipt of the grievance or after a hearing, the grievance may be appealed within five (5) working calendar days (exclusive of weekends and holidays) to the next step. The lack of response by the State within the prescribed time period, unless time limits have been extended by mutual agreement, should be construed as a negative response."

Paragraph 6: Revise paragraph 6 to state as follows:

"Time limits under this Article may be changed by mutual agreement, which is in writing, and Requests for extensions of time limits must be made in writing and will not be unreasonably denied.

Paragraph 7: Add the following sentence to paragraph 7:

"Such request must be made in writing to the Office of Employee Relations and such waiver must be provided in writing by the Office of Employee Relations to be valid."

8. Article X, Arbitration: Add the following sentences to the end of Paragraph 1 of Step 3:

"No arbitrator shall have any authority or jurisdiction to rule upon the merits of a grievance that was not initially timely filed in accordance with this Section. Moreover, if either the Union's appeal to Step Two or the request for arbitration at Step Three is not timely filed in accordance with this Section, then the decision made at the prior step shall be deemed final

and binding and shall not thereafter be deemed subject to arbitration. Where the State asserts that the grievance was either: (i) not initially timely filed, (ii) not timely appealed at Step Two, or (iii) not timely submitted to arbitration at Step Three, the Arbitrator shall first decide the timeliness issue(s) before making any ruling on the merits. No arbitrator shall have any authority or jurisdiction whatsoever over the merits of any grievance that was not initially timely filed, or where a Step Two appeal or submission to arbitration at Step Three was not timely filed. If the State asserts a timeliness argument to the Arbitrator, then only after a finding that the grievance was timely filed, appealed, and submitted to arbitration does the Arbitrator have any authority or jurisdiction to rule upon the merits of the grievance. The foregoing language is not intended to either require or preclude an Arbitrator from bifurcating the procedural issue from the issue on the merits."

9. Article XI, Discipline:

Section L: Subsection 4, General Provisions – Revise 4 B as follows:

"B. For the purpose of this sub-section, the following individuals, or their respective designees, shall be the appointing authority for the respective Department or Agency: Administrator (Corrections); Chairman Vice-Chairman (Parole); Superintendent (Juvenile Justice); Director of Administration (Treasury); Human Resources Director (Human Services); Superintendent (Palisades Interstate Park Commission); Director of Human Resources (Environmental Protection); Superintendent (Law and Public Safety); Assistant Vice President of Labor Relations (Rowan University); and Vice President or Director of Human Resources (all other State Colleges)."

10. Article XVI, Personal Preference Days: Revise as follows:

"Personal Preference Days

During the month of November in the preceding calendar year, employees may submit requests for alternative holidays for the upcoming calendar year, which shall be dates of personal preferences such as religious holidays, employee birthday, employee anniversary or like days of celebration provided:

a. The agency employing the individual agrees and schedules the alternative date off in lieu of the holiday

specified and the employing agency and employee's function are scheduled to operate on the specified holiday.

b. The alternative day off in lieu of the holiday, other than Christmas, must occur after the specified holiday. Preference days in lieu of Christmas may be taken before the holiday.

c. The employee shall be paid on the holiday worked and deferred at his regular daily rate of pay.

d. The commitment to schedule the personal preference day off shall be non-revocable under any circumstance. The employee must actually work on the holiday that he/she agreed to work in exchange for the personal preference day in order to be entitled to the personal preference day off. In order to be entitled to the personal preference day, the employee must work on the holiday exchanged for the personal preference day prior to the date of the personal preference day. Moreover, under no circumstances shall there be compensation for personal preference days after retirement and employees shall be docked for any personal preference days that were utilized based upon the expectation of continued employment through the calendar year. Notwithstanding the foregoing, when an employee has already selected a personal preference day and worked the corresponding holiday as promised, and the employee gives at least ten (10) days written notice that he/she will be in no pay status for a period of at least twenty (20) days due to a documented medical condition, the employee may request that the personal preference day be rescheduled to a later date and such requests shall be considered in light of operational needs;

e. and provided further that if, due to an emergency, the employee is required to work on the selected personal preference day he shall be paid the same basis as if it were a holiday worked.

f. These provisions shall only be applicable to employees that work in institutions that are required to be manned 24 hours per day, seven (7) days per week. If any employee fails to honor his commitment to work the holiday for which he has taken a personal preference day, he/she will be disqualified from taking a personal preference day for one year and any personal preference days scheduled within that calendar year may be revoked at the discretion of the agency.

Where more requests for personal preference days are made that can be accommodated for operational reasons within a work unit, the job classification seniority of employees in the work unit shall be the basis for scheduling the personal preference days, which can be accommodated.

11. Article XXIV, Leave of Absence Without Pay: Revise Section A to state:

Article XXIV, Leave of Absence Without Pay: Revise Section A to state:

"A permanent employee, upon written application setting forth the reason, may be granted a leave of absence without pay for the types of leave covered by N.J.A.C. 4A:6-1.10 for up to a maximum period of total of one (1) year (either consecutive or intermittent) for all leave that is related to the reasons set forth in the written application. Further, leave in exceptional circumstances may be granted where it is in the public interest."

II. STIPULATED TERMS

ARTICLE IV

NON-DISCRIMINATION

Revise Article IV to state:

The provisions of this Agreement shall be applied equally to all employees. The Association and the State agree that there shall not be any discrimination, including harassment based on race, creed, color, national origin, nationality, ancestry, age, sex, familial status, marital status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for military service, mental or physical disability, including perceived disability and AIDS and HIV status, domestic partnership, political affiliation, Association membership, lawful membership activities or activities provided in this agreement, pregnancy or breastfeeding, gender identity or expression, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer.

ARTICLE VI

DUES DEDUCTION

Section A: Membership Dues

Paragraph 5: Add new Paragraph 5 stating as follows:

Within 10 calendar days from the date of hire of negotiations unit employees, the Employer shall provide the following contact information to the Association in a

digital format agreed to by the Union: name, job title, worksite location, home address, work telephone numbers, and any home and personal cellular telephone numbers on file with the Employer, date of hire, and work email address and any personal email address on file with the Employer. Every 120 calendar days beginning on January 1, 2019, the Employer shall provide the Association the same information for all unit employees in a digital format agreed to by the Union.

Paragraph 6: Add new Paragraph 6 stating as follows:

Notice of Dues and Fees: Prior to the beginning of each agreement year, the Association will notify the State in writing of the amount of regular membership dues, initiation fees and assessments charged by the Association to its own members for that agreement year.

Paragraph 7: Add new paragraph 7 stating:

Indemnification: The Association hereby agrees that it will indemnify and hold the State harmless from any claims, actions, or proceedings brought by any employee in the negotiation's unit, which arises from deductions made by the State in accordance with this provision.

Paragraph 8: Add paragraph 8 stating:

Legal Requirements: Provisions in this clause are further conditioned upon all other requirements set by statute.

Paragraph 9: Add new paragraph 9 stating:

If, after the State receives a proper notice from an employee revoking dues authorization, the State mistakenly deducts union dues from the employee and transmits dues to the Association, the Association shall be solely responsible for returning to the employee the dues it received.

Paragraph B: Delete in its entirety

ARTICLE VII, ASSOCIATION RIGHTS
PARAGRAPH A, ACCESS TO PREMISES
NUMBER 3

NUMBER 3

Where a problem occurs which is of such consequence as to suggest the need for a higher than institutional level Association representative, a request to permit a member of the Executive Board access to the location of the problem may be directed to the Office of Employee Relations for approval. A decision and any conditions imposed by the Office of Employee Relations shall be final. Approval of such requests shall not be

unreasonably withheld, and the Association shall have the right to grieve the matter of reasonableness.

ARTICLE VIII, ACCESS TO PERSONNEL FOLDERS AND EVALUATIONS
PARAGRAPH C

PARAGRAPH C

An employee may request the expungement of materials included in the folder where there are pertinent and substantive factual inaccuracies or for reasons of time duration, relevance or fairness. Such requests will be evaluated in relation to the State's need for comprehensive and complete records but will not be unreasonably denied.

ARTICLE VIII, ACCESS TO PERSONNEL FOLDERS AND EVALUATIONS
ADD PARAGRAPH E,

Any employee records that contain medical information to include any notes to substantiate an absence shall be maintained in a secure and separate file apart from the regular personnel file. All efforts will be made to protect the employee's medical information from those individuals that should not have

ARTICLE XIII SALARY COMPENSATION PLAN and PROGRAM
PARAGRAPH A, ADMINISTRATION
NUMBER 2

The State agrees that all regular bi-weekly paychecks be accompanied by a current statement of earnings and deductions and cumulative year-to-date earnings and tax withholdings. All overtime hours shall be included in the regular bi-weekly paycheck.

ARTICLE XX, SICK LEAVE

PARAGRAPH E, SICK LEAVE WHILE ON VACATION
NUMBER 1

When an employee is on vacation and requires sick leave for any portion of that vacation leave, he must immediately request the use of accumulated sick leave, in accordance with State regulations, through the designated authority. Such requests may be made by telephone, telegram, *email* or letter, but if by phone, should be confirmed by telegram, *email* or letter to clearly establish time of request. No sick leave will be credited unless supporting medical evidence verifying the illness or injury, which would have precluded working, is presented.

ARTICLE XXV, SECTION D
LEAVE FOR ASSOCIATION ACTIVITY

Revise Section D as follows:

Application for any leave pursuant to this Article shall be submitted in writing to the Governor's Office of Employee Relations at least fourteen (14) days in

advance to be reviewed for contractual compliance, and then forwarded to the affected department to determine if the request will cause an undue hardship on the department. Timely requests will not be unreasonably denied. Leaves will only be granted to individuals authorized by an Association Executive Board Member.

SIDE LETTER OF AGREEMENT

RECIPROCAL PROCEDURE

Create Side Letter of Agreement stating:

The Parties acknowledge that the Department of Corrections will extend Internal Management Procedure CUS.001.RDR.01, titled Reciprocal/Double Reciprocal Procedure, for an additional year, so that it will remain effective from June 15, 2019 through June 14, 2020. If the Department of Corrections decides to discontinue the practice described in Internal Management Procedure CUS.001.RDR.01 it will provide the Association with 30 days advanced written notice and the State agrees, at the Association's written request, to meet and discuss the decision.

III. STATUTORY CRITERIA

In rendering my award, I am bound to apply the criteria set forth at *N.J.S.A.* 34:13-16(g) which provides:

The arbitrator shall decide the dispute based on a reasonable determination of the issues giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor; provided, however, that in every interest arbitration proceeding the parties shall introduce evidence regarding the factor set forth in paragraph (6) of this subsection and the arbitrator shall analyze and consider the factor set forth in paragraph (6) of this subsection in any award:

- (1) The interests and welfare of the public. Among the items the arbitrator shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c.68 (C. 40A:4-45.1 et seq.).

- (2) Comparison of the wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
 - (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995, c.425 (C. 34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
 - (d) In comparative private employment.
 - (e) In public and private employment in general
- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c.68 (C. 40A:4-45.1 et seq.).
- (6) The financial impact on the governing unit, its residents, the limitations imposed upon the local unit's property tax levy pursuant to section 10 of P.L.2007, c. 62 (C.40A:4-45.45), and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the

employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.
- (9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the Employer by Section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

IV. BACKGROUND

A. The State

The State of New Jersey has a population of 9.3 million people and is the most densely populated state in the country. (Association Exs. 11 & 12). The finances of the State have been improving, and it expects to have a budget surplus in both 2022 and 2023. (Association Ex. 9 and State Ex. 110). In addition, the State's bond rating has modestly improved, and Moody's Investor Services has raised the State's rating from A3 to A2. (State Ex. 110). However, this is only the second time since 1977 that the State's bond rating has improved. The State has decreased its long-term debt by fully funding its obligations, including pensions. (Tr. Vol. 2 p. 99).

Although the State is projecting a surplus, it is forty-ninth among the fifty states in terms of having a balance of funds as a percentage of expenditures. Only Illinois ranks lower. (Tr. Vol. 2 p. 101).

B. The Bargaining Unit

The Association represents a bargaining unit of approximately three-hundred and thirty members. Approximately 88% of the bargaining unit members work in State correction facilities. (Tr. Vol. 1 p. 38). The remaining members of the bargaining unit are spread among other state agencies including the State Parole Board, Community Colleges, the Department of Weights and Measures, the Department of Human Services, and the Palisades Interstate Park Commission⁶. (Tr. Vol. 1 p. 93). Salaries range from \$75,000 to \$113,000⁷. (State Ex. 2).

Except for Parole Board employees all members of the bargaining unit are expected to wear a uniform. Recently, uniform requirements have changed for Parole Board employees, and they are now required to wear a uniform. The uniform for Parole Board Lieutenants is not as elaborate as that of other members of the bargaining unit.

Correction facilities have a number of classifications of employees including: Correction Officers, Sergeants, Lieutenants, Majors, Superintendents, administrators and civilian staff. Before the COVID-19 pandemic, Majors oversaw correction facilities, but they were not obligated to respond to emergencies. (Tr. Vol. 1 p. 42). Lieutenants working in correction facilities are the highest-ranking officers on a facility floor. They are middle management and are the liaison between the Majors and administrators and the

⁶ Except for discussion of the uniform allowance, the focus of the hearing was on the members of the bargaining unit employed in correction facilities.

⁷ Step movement was not an issue in this proceeding.

Sergeants and Correction Officers. Lieutenants are responsible for the safety of the staff, civilians, and inmates. (Tr. Vol. 1 p. 41-42).

Lieutenants also have frequent contact with inmates. They oversee inmate grievances and are responsible for the preparation of incident reports and medical reports. Essentially, the Lieutenants are responsible for the care and custody of inmates. (Tr. Vol. 1 p. 41-42).

The COVID-19 pandemic fundamentally changed the responsibilities of the Lieutenants in correction facilities. The record shows that Majors and civilian staff, where possible, began working remotely, thus making the Lieutenants the highest-ranking officers at the correction facilities. (Tr. Vol. 1 p. 45). In addition, there were increased stresses on the system. Inmate activities were severely limited, and family visits were eliminated resulting in an increase in tension in the facilities. (Tr. Vol. 1 p. 45). Lieutenants were responsible for coordinating medical care for patients who contracted COVID, and many members of the bargaining unit also became ill. (Tr. Vol. 1 pp. 53, 60, 67).

Lieutenant Crenny testified that as a result of the COVID-19 pandemic, members of the bargaining unit experienced frustration with changing directives from their superiors. (Tr. Vol. 1 pp. 64-65). Association Binder 2 contains a series of emails showing the changing orders that the Lieutenants received. The Association notes that, beyond a recognition pin, the members of the bargaining unit received no additional COVID related benefits. (Tr. Vol. 1 pp. 69-70, Association Ex. 88).

C. NEGOTIATION HISTORY

The negotiation of this successor Contract commenced before the onset of the COVID-19 pandemic. Initially, the State had offered a four-year agreement with a 2%

wage increase to take effect July 1 of each year of the agreement. (Tr. Vol. 1 pp. 73-75). With the onset of the pandemic, the negotiations were suspended. When negotiations resumed, the State modified its wage proposal and offered: a) Effective retroactive to the first pay period following October 1, 2019: 2.00%; b) Effective retroactive to the first pay period following July 1, 2021: 2.00 %; c) Effective first pay period following December 1, 2021: 2.00%; and d) Effective first pay period following July 1, 2022: 2.0%. This modified wage proposal is identical to the State's final offer in this proceeding.

Seven bargaining units accepted this proposal and those units, also entitled to the benefits of the statute, did not seek interest arbitration. Those units included other uniformed employees of the Corrections Department: the Policemen's Benevolent Association ("PBA"), Local 105, representing Correction Officers; New Jersey Law Enforcement Supervisors Association ("NJLESA") representing Sergeants; and the New Jersey Law Enforcement Commanding Officers Association ("NJLECOA") representing Majors. Other unions representing bargaining units in the State also accepted the wage package, they are: the Communications Workers of America ("CWA"); Local 195, International Federation of Professional and Technical Engineers ("IFPTE"); International Brotherhood of Electrical Workers (IBEW) Local 33⁸; and the American Federation of State County and Municipal Employees ("AFSCME").

However, in at least one instance, the pattern has been disrupted. On March 17, 2022, Department of Corrections Acting Commissioner Victoria L. Kuhn ("Kuhn") informed the members of Policemen's Benevolent Association Local 105 that the State Legislature has approved wage increases for the correction officers. These officers are the

⁸ This bargaining unit was placed on a higher salary guide resulting in a \$10-15,000 wage increase. (Association Ex. 90).

subordinates of the members of the bargaining unit. Commissioner Kuhn informed the officers that as a result of P.L. 2021 C. 406, effective April 23, 2022, incoming correction officers will receive a wage increase from \$40,000 per year to \$48,000 per year. In addition, each member of the bargaining unit will receive “an 8% across the board increase for all steps.” (Association Ex. 130). Other bargaining units employed in the Corrections Department, including the Lieutenants were not affected by this legislation.

V. THE PROPOSALS

TERM

Initially, it should be noted that both the State and the Association believe a four-year term is appropriate, for the period July 1, 2019 to June 30, 2023. I will grant a four-year term.

WAGE PROPOSALS

a. The Association’s Wage Proposal

a-1 The Association’s Position

The Association made the following wage proposal:

Article XIII, §B. 1. – Compensation Adjustment – retroactive wage adjustments for all eligible employees in the unit as of the date of the adjustment⁹:

- a.** July 1, 2019 – 3.0%;
- b.** July 1, 2020 – 3.0%;
- c.** July 1, 2021 – 4.0%; and
- d.** July 1, 2022 – 5.0%

The cost of this proposal is:

⁹ The Union intends this compensation adjustment to apply to negotiating unit members who are no longer in the negotiating unit (whether due to discharge, resignation, retirement, etc.) but who were on payroll as of the date on which the increase is to be retroactively applied.

- a) For the period January 1, 2019 to June 30, 2020: \$41,804,574;
- b) For the period July 1, 2020 to June 30, 2020: \$43,750,014;
- c) For the period July 1, 2021 to June 30, 2022: \$46,165,191; and
- d) For the period July 1, 2022 to June 30, 2022: \$48,763, 706.

This adds up to a total payroll cost to the state of \$180,483,484.00. (Piotrowski's Expert Report Tab 13).

The Association contends that its salary proposal is consistent with the statutory scheme governing interest arbitrations. The Association contends that its proposal would balance the need to maintain the Lieutenants' standing regarding wages and benefits, while not endangering the State's finances.

The Association contends that the most important factor before me is the public interest. The Association posits that the State must attract and retain highly qualified employees. The Association maintains that subsumed within the public interest standard is the morale of employees, and continuation of the bargaining unit.

The Association notes that, under its proposal, the Lieutenants would receive a cumulative raise of 15% which is slightly less than the raise given to the rank-and-file Correction Officers. The Association points out that the State has not claimed an inability to pay the Association's proposed wage increases.

The Association notes that, in recent years, the Lieutenants have only seen modest wage improvements. Between 2011 and 2018, the Lieutenants had annual increases of 1.25%, 1.25%, 1.75% and 1.32% and four years of no wage increase at all. In addition, since 2011, pension contributions have risen to 10% of salary and the Lieutenants are required to pay 35% of their health insurance premium.

The Association recognizes that I am required to consider both internal and external comparisons of the bargaining units' salaries with that of other similarly situated

workers, employed in the private sector, in other municipal and county positions, and by the State. The Association notes that in 2019 and 2020, private sector workers in New Jersey received an average wage increase of 10.5%. (Association Ex. 17 p.2).

The Association also compares the members of the bargaining unit against other correction officers employed in counties and municipalities in New Jersey. The Association notes that its members starting salary is \$75,000 a year. Since 2014, no Lieutenants employed in comparable bargaining units earn less than \$100,000. In addition, while the members of the State bargaining unit's top rate receive \$113,000 per year, a number of employers pay Lieutenants in excess of \$150,000 per year. (Association Exs. 96-128). The Association notes that even in those instances where wages were limited to 2% increases, the Lieutenants in those counties and municipalities were starting from a higher base salary. In addition, unlike the State, many counties provide longevity pay, educational incentives and rank differentials.

The Association also posits that unlike revenue caps placed on counties and municipalities which may have the effect of restraining wage increases, there is no similar constraint on the State. In addition, the State has not demonstrated an inability to pay the Association's proposed wage increases. The Union concedes that there is a \$7.5 million difference between its proposal and the State proposal but contends that difference only represents 0.11% of the 2022 surplus, and 0.16% of the budgeted 2023 surplus. (See Piotrowski's Expert Report).

The Association also notes that among the factors I must consider is the "cost of living." *N.J.S.A. 34:13A-16(g)(7)*. The Association posits that as a result of recent inflationary factors, this issue has become more prominent than it has been in the past.

The Association's expert notes that inflation rose to 5.39% in 2021, and as of February 2022 the annual inflation rate was 7.48%. (Piotrowski Report 16-17). The increase in the cost of living accentuates the fact that the members of the bargaining unit received meagre wage increases from 2011 to 2018. The Association points out that the cost of living in New Jersey is 20% higher than the rest of the United States. The Association also notes that a basket of goods that cost \$100,000 in 2012, now costs \$124,036.79. (Piotrowski Report 16-17).

The Association argues that its proposal should be adopted in order to assure the continuity and stability of employment.

a-2 The State's Response to the Association's Wage Proposal

The State rejects the Association's argument that the legislature's recent enactment of a wage increase for Correction Officers represented by PBA Local 105 somehow changes the need to adhere to a pattern of settlement. The State notes that the legislation providing for the wage increase was not enacted until January 2022, well after PBA Local 105 agreed to the pattern of settlement. The State also reasons that the legislation did not come about because of a negotiated settlement, but because of a legislative enactment, and therefore is not contemplated by the statutory interest arbitration framework.

The State contends that the Association has not come forward with sufficient evidence to justify a departure from the pattern of settlement. The State concedes that an arbitrator might deviate from an established pattern of settlement "if a particular bargaining unit is not 'on equal negotiations footing with other [of the employer's bargaining] units.'" (State's Brief at 34-35 quoting *County of Morris and PBA Local 298*,

IA-2021-035, PERC No. 2013-27 (PERC 2012)). The State posits that an arbitrator may deviate from the pattern if the bargaining unit has made some special concession that other units did not make. The State contends that the Association has not established that there are unique circumstances that would justify a departure from the pattern of settlement.

The State rejects the Association's contentions that a deviation from the pattern is justified based on the challenges posed by the COVID-19 pandemic and inflation. While conceding that the Lieutenants experienced increased challenges as a result of the COVID-19 pandemic, the State takes the position that the challenges were also experienced by the other bargaining units. In addition, the State notes that not only did the uniform personnel experience COVID-19 challenges, but non-uniform personnel represented by the CWA and AFSCME also experienced these challenges.

The State also points out that any additional work taken on by the Lieutenants was compensated with overtime.

Regarding inflation, the State notes that the other correction units agreed to their contracts when inflation was already rising. The State takes the position that, if inflation remains an issue, the Association can seek a higher wage increase when it negotiates a successor agreement.

The State also posits that granting the Association's wage demand would result in "harmful wage compression" with the Sergeants and Majors.

b. The State's Wage Proposal

b-1 The State's Position

The State made the following wage proposal:

Salary Increases: Across-the-board salary increases to all employees employed by the State as of the date of ratification:

Effective retroactive to the first pay period following October 1, 2019:	2.00%
Effective retroactive to the first pay period following July 1, 2021:	2.00%
Effective first pay period following December 1, 2021:	2.00%
Effective first pay period following July 1, 2022:	2.00%

The cost of this proposal is:

- a) For the period January 1, 2019 to June 30, 2020: \$41,181,510;
- b) For the period July 1, 2020 to June 30, 2020: \$42,110,131;
- c) For the period July 1, 2021 to June 30, 2022: \$44,002,580; and
- d) For the period July 1, 2022 to June 30, 2022: \$45,645,097.

The proposal adds up to a total payroll cost to the State of \$172,939,318. The difference between the Association's proposal and the State's proposal is \$7,544,167 over the life of the Contract. (Piotrowski's Expert Report Tab 13). It should be noted that, traditionally, wage increases were implemented on July 1 of any given year. The State's proposal would modify that practice for 2019 and 2020.

The State vigorously argues that based on the pattern of settlement with the seven other bargaining units its final offer should be adopted. The State contends that adoption of the pattern "promotes harmonious labor relations, provides uniformity of benefits, maintains high morale, and fosters consistency in negotiations." (State's Brief at 26 quoting *Somerset County Sheriff's Office v. Somerset County Sheriff's FOP Lodge #39*, IA-2005-083, 2008 WL 199705, at *6 (N.J. App. Div. Jan 25, 2008)). The State points to numerous interest arbitration awards where arbitrators have relied on settlement patterns in rendering their awards. (State's Brief at 27, citations omitted). The State also contends

that the pattern of settlement also implicates other statutory factors such as continuity and stability of employment.

The State points to the fact that 50,000 state employees in the seven bargaining units have agreed to the identical pattern of settlement. The State also contends that departing from the pattern of settlement in this instance would have a deleterious impact on the other bargaining units that agreed to the pattern.

The State argues that the application of the nine statutory factors should result in an award of its final proposal. The State maintains that its proposal is in the interest and welfare of the public. The State contends that awarding its final proposal would be consistent with the State's efforts to improve its finances. The State also posits that it will maintain labor harmony by encouraging bargaining units to settle. In addition, the State contends that it will maintain the morale of all uniformed correction units and maintain an appropriate wage balance between the ranks.

Regarding the fiscal impact factor, the State urges me to recognize that a departure from the pattern might result in future labor strife and would invariably affect the next round of negotiations. The State also notes that while its financial picture has improved, it has only improved marginally. Despite the improvement in the State's debt rating, the State notes that it ranks 49th among the fifty states in terms of its surplus.

The State also notes that while its budget is \$48.9 billion dollars, only a small portion of the budget is devoted to salaries or \$4.3 billion dollars or just 8.8% of the State budget. (State Ex. 110). Thus, the State contends that only a small amount of its budget is earmarked for salaries. The State also maintains that the wage increases must be tempered by the fact that the State is attempting to make up for the failure of previous

administrations to fully fund the pension system. In addition, despite efforts to reform the health care system, costs continue to rise.

The State compares the wages of the Lieutenants against other select groups. In comparing the wages of the Lieutenants against Federal, state and local government employees. The State notes that, in 2019, the overall average wage for public employees was \$67,353.00, whereas under the State's wage proposal the Lieutenants will be earning \$115,684.88, or 71.76% more than the average public worker.

The State contends that the wages it is offering the members of the bargaining unit for 2019 and 2020 of a 2% increase in each year is consistent with the average wage increase received by New Jersey public employees who received an average wage increase of 1.8% in 2019, and 2.9% in 2020. The State also says that the Lieutenants have outpaced the average wage increases of Federal employees.

The State notes that the Lieutenants wages are well above the average American income. In 2020 median household income was \$67,521.

In comparing the wage increases of the members of the bargaining unit to other correction Lieutenants, the State notes that nearly half of the bargaining units agreed to wage increases of 2% or less for 2022, and that eleven of the twenty-one bargaining units agreed to wage increases of 2% or less for 2021.

The State concedes that the bargaining unit's wages are slightly less than the county average but notes that the Lieutenants earn more than the Lieutenants in five New Jersey counties.

As noted above, the State argues that granting the Association's proposal would create a wage compression issue between the lower ranked Sergeants and especially

the higher ranked Majors. The State offers two tables comparing the effect of its proposal and the Association's proposal on the other ranks at the top step.

The first table shows the effect of an Award of the State's wage proposal.

Corrections Lieutenants Top Step vs. Corrections Sergeants and Majors if State's Final Offer is Awarded

	10/1/2019	7/1/2021	12/1/21	7/1/22
Sergeant	\$99,085.64	\$101,067.35	\$103,088.70	\$105,140.47
Lieutenant	\$115,684.43	\$117,998.12	\$120,358.08	\$122,765.25
Major	\$131,580.00	\$134,211.60	\$136,895.83	\$139,633.75

The second table shows the effect of an Award of the Association's wage proposal.

Corrections Lieutenants Top Step vs. Corrections Sergeants and Majors if NJSOLEA Final Offer is Awarded

	7/1/19	10/1/19	7/1/20	7/1/21	12/1/21	7/1/22
Sgt		\$99,085.64	\$98,085.64	\$101,067.35	\$103,088.70	\$105,140.47
Lt	\$116,818.59	\$116,818.59	\$120,323.15	\$125,136.08	\$125,136.08	\$131,392.88
Maj		\$131,580.00	\$131,580.00	\$134,211.60	M	\$139,633.75

The comparison shows that for those at the top step, under the State's proposal, Lieutenants would be making 11,176.25 per year more than Sergeants, and under the Association's proposal the Lieutenants would be making \$26,252 more than Sergeants. Similarly, under the State's proposal, Lieutenants would make \$16,868 less than Majors, but only \$8,241 less than Majors under the Association's proposal. The State maintains that granting the Association's proposal would disincentivize members of the bargaining unit from seeking a promotion to Major.

The State is not relying on comparisons to jurisdiction's outside of New Jersey.

In sum, the State contends that its wage proposal is appropriate and provides the members of the bargaining unit with an excellent benefit package.

b-2 The Association's Response to the State's Wage and Hour Proposal

The Association maintains that the State's proposals would make it more difficult to retain and recruit qualified personnel and would have a deleterious impact on morale. The Association notes that under the State's proposal the cumulative wage increase would only be 8%.

The Association contends that in light of the increase in pension and health costs, the State's proposals would place the members of the bargaining further behind and would have a deleterious impact on morale.

The Association vehemently criticizes the State's refusal to offer a wage increase for 2020. The Association points out that 2020 was the year when its members showed up to work each day under difficult conditions caused by COVID-19, while Majors and administrators were permitted to work remotely. The Association characterizes the State's proposal of no wage increase for 2020 as "demoralizing and insulting." (Association Brief at 26).

The Association also notes that, given inflation, the State's proposal would go far in reducing the bargaining unit's purchasing power and standard of living.

The Association rejects the State's argument that the internal comparison with other Correction Department bargaining units and other state employees should be the overriding factor in my analysis. While conceding that the pattern of settlement is a statutory factor in interest arbitration deliberations, the Association contends that it is not solely determinative. The Association posits that the bargaining unit should not have to endure reduced wages because other units reached an agreement over three years ago.

The Association also notes that the State itself has recently departed from the pattern by providing the members of PBA Local 105 a 16% wage increase for the term of their Contract. In addition, the members of the IBEW Local were moved to a different salary guide with substantial wage increases.

The Association also notes that the CWA bargaining unit accepted the pattern of settlement early in the pandemic. At the time the CWA accepted the settlement there was a great deal of economic uncertainty, and the CWA membership was facing layoffs. The Association contends that the CWA agreed to a 2020 wage freeze in order to avoid layoffs for its membership. The Association notes that its members were never in danger of being laid off, and therefore do not face the same pressure to agree to a wage freeze. (Tr. Vol. 1 pp. 78 & 147).

The Association posits that granting the State's proposal would have a deleterious impact on the morale of the bargaining unit and make it more difficult to recruit Lieutenants. The Association notes that under the State's proposal, some Correction Officers actually make more than some Lieutenants. ((Tr. Vol. 1 p. 84).

c. Discussion Concerning the Competing Economic Proposals

Having reviewed the economic proposals of both the Association and the State, I conclude that neither the proposal of the Association nor of the State should be granted in its entirety, and I will instead make an award based on the State's economic proposals with a significant change in the final two years of the agreement. Instead of adopting the State's proposal of a 2% wage increase effective the first pay period following December 1, 2021, I will award a 3% wage increase. Similarly, instead of awarding a 2% wage increase effective the first pay period following July 1, 2022, I will again award a 3% wage

increase. The increase shall apply to employees who were no longer in the negotiating unit, but who were on payroll as of the date on which the increase is to be retroactively applied.

I recognize that the State has vigorously argued that there is a well-established pattern of settlement for the numerous state bargaining units, and the State contends that there is no justification for departing from that pattern. While I acknowledge that the collective agreements reached by the State with other correction department bargaining units, and with other State employees supports the State's position concerning pattern of settlement, that is only one of the nine statutory factors that I am required to analyze in making my award. One other statutory factor that stands out and will be considered in analyzing the record before me is the increase in the cost of living. While inflation had been under control for many years, for a myriad of reasons some stemming from the COVID-19 pandemic and disruptions to the supply chain, that is no longer the case.

While the State has argued that the recent spike in inflation may be transient, Mr. Piotrowski's un rebutted testimony shows that the inflation rate was 5.39% in 2021 and was running at a rate of 7.48% thus far in 2022. My award will only go part way in alleviating the increase in the cost of living.

Under my award, the top step under the Contract will rise to \$121,538.06 as of December 1, 2021 and will rise to \$125,184.20 as of July 1, 2022. I believe this will maintain a reasonable separation between the Sergeants below the Lieutenants and the Majors above the Lieutenants. As of December 2021, Lieutenants at the top step will receive \$18,449.36 more than the Sergeants at the top step. Under the State's proposal the difference would have been \$17,269.38. As of July 2022, the Lieutenants at the top

step will receive \$20,004.35 more than the Sergeants at the top step. Under the State's proposal, the difference would have been \$17,624.78.

In comparison to the Majors, as of December 2021, the Lieutenants at the top step will receive \$15,357.77 less than the Majors. Under the State's proposal, the difference would have been \$16,536.75. As of July 2022, the Lieutenants at the top step under this award will receive \$14,449.55 less than the Majors, and under the State's proposal the difference would have been \$16,868.50.

I do not believe that the difference in pay, under my Award, between either the Sergeants below, or the Majors above will cause compression problems raised by the State. If anything, Sergeants will be more incentivized to seek promotion to Lieutenant.

In addition, the State posits that the cost to fund the State's final offer in fiscal year 2022 would be \$1,930,948.02 and that under the Award a 3% increase as opposed to a 2% increase would raise that cost to \$1,950,257.75. Similarly, the State posits that the cost of funding its proposal in fiscal year 2022 would be \$3,113,931.91, and under the Award a 3% increase as opposed to a 2% increase would raise that cost to \$3,145,071.22.

Review of the Statutory Criteria under N.J.S.A. 34:13-16(g)

Although I have discussed some of the salient statutory criteria, I will now summarize the requirements of *N.J.S.A. 34:13-16(g)*. The primary statutory requirement is that the Award comport with the interests and welfare of the public. *N.J.S.A. 34:13-16(g)(1)*. This requirement must be read in conjunction with the remaining subsections of the statute. In the context of this proceeding, the Association has established that the members of the bargaining unit, especially those Lieutenants who worked in correction

facilities, as a result of the COVID-19 pandemic have recently been working under extreme conditions. The work of the Lieutenants is vitally important to the State. In reading *N.J.S.A. 34:13-16(g)(1)* in conjunction with the other subsections. I am aware that the Award may not conflict with the lawful authority of the employer, and that the costs of the Award duly impose a financial burden on the budget of the State or its taxpayers. In addition, I recognize that this Award is being issued during a pandemic, and I have taken this factor into account in whether the Award is issued in the interests and welfare of the public. I also recognize that the State by way of legislation as opposed to collective bargaining has implemented a significant wage increase for rank-and-file correction officers. I conclude that this Award is in the public interest.

I am also charged with determining how the Award compares with private sector employees, public employment in general, and public employment in the same or comparable jurisdictions. *N.J.S.A. 34:13-16(g)(2)*. Under the circumstances of this case, and because of the specialized nature of the work performed by the Lieutenants, I conclude that private sector comparisons are of limited use in my analysis.

I recognize that the State has contended that my Award should be constrained by the pattern of settlement reached with other State employees and especially other bargaining units employed by the Department of Corrections. I recognize the State's argument that the pattern of settlement promotes an important factor in Interest Arbitration. As Arbitrator Mastriani states:

Consistency in treatment among bargaining units of the same employer is unquestionably a generally accepted element of good labor relations policy. Sound and consistent labor relations are certainly in the public interest. It prevents 'whipsawing' in negotiations and it reduces the potential for

decline in morale, which often accompanies the perception of disparate treatment.

In the Matter of the Interest Arbitration between City of Jersey City and Jersey City Police Officers Benevolent Association, IA-2017-012 (2017)(Mastriani, J) (quoting, *In the Matter of the Interest Arbitration between Township of Holmdel and PBA, Local 239*, IA-93-163).

However, as I noted above, the pattern itself is not the end of the analysis. Even under a pattern, each agreement has provisions specific to that agreement and tradeoffs within the agreement which may explain why a departure from the pattern is necessary. For example, the CWA agreement was reached at time when the economic impact of the COVID-19 pandemic was believed to be dire. The members of the CWA bargaining unit were facing possible layoffs, and in that context the acceptance of the State's offer made sense because the offer was accompanied by a no layoff pledge by the State. It should also be noted that the CWA bargaining unit is not afforded the right to engage in interest arbitration.

The other Correction Officer bargaining units were similarly negotiating their agreements at a time when the State expected a major economic downturn, and it may have been reasonable for those units to agree to the terms offered by the State. I would note again that the State has altered the pattern of settlement for the rank-and-file correction officers by legislatively imposing a wage increase. While the State has argued that I should disregard that legislation because it was not reached through collective bargaining, I conclude that is a distinction without a difference.

The statute provides that there should be a

[c]omparison of the wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of

employment of other employees performing the same or similar services and with other employees generally

N.J.S.A. 34:13-16(g)(2). However, in directing interest arbitrators to consider the wages and salaries of other employees, the Statute makes no distinction between negotiated terms and conditions of employment and those that were imposed legislatively or by any other means¹⁰. Therefore, the pattern was altered by the State itself and is not the predominant factor the State contends it should be.

When comparing the members of the bargaining unit to those of Lieutenants employed in other correction bargaining units, it is apparent that the Lieutenants employed by the State generally make significantly less than those employed in New Jersey counties which have correction facilities. As the Association notes, the members of the bargaining unit may make as little as \$75,000 per year, while no County correction lieutenants earn a salary below \$100,000. The State argues that recent collectively negotiated settlements for the County Lieutenants were in line with the 2% wage increases offered by the State. However, as the Association notes, the County salaries begin at a much higher level, and the State Lieutenants make less money than almost all of their comparators employed in County correction facilities.

Based on the comparisons in the record, I believe my Award comports with the requirements of *N.J.S.A. 34:13-16(g)(2)*.

The next statutory provision requires me to place the salary award in the context of the overall compensation, including fringe benefits received by members of the

¹⁰ I would note that any comparison to private sector employees who are frequently not members of a union would forego an analysis of negotiated wages.

bargaining unit. *N.J.S.A. 34:13-16(g)(3)*. I have taken this into account. My Award will not disrupt the overall compensation of the members of the bargaining unit.

The stipulations of the parties are addressed above and are hereby made part of this Award. *N.J.S.A. 34:13-16(g)(4)*.

I am also required to consider the lawful authority of the State to implement this Award, and the financial impact on the governing unit. *N.J.S.A. 34:13-16(g)(5) & (6)*. With the elimination of the 2% hard cap, and unlike counties or municipalities, there are no legal restrictions on the State in implementing this Award. In addition, the State finances have been improving, and the wage increases would only be a small percentage of the State's surplus. Therefore, I conclude that there will only be a minor impact on the State when my Award is implemented.

The Statute also requires me to analyze the impact of the cost of living. *N.J.S.A. 34:13-16(g)(7)*. As noted above, the nation is experiencing increased inflation, and I conclude that a departure from the State's proposal is justified.

Under *N.J.S.A. 34:13-16(g)(8)*, I am required to address the effect of this Award on the continuity and stability of employment. I believe this Award will enhance morale and contribute to the continuity and stability of employment.

The final statutory provision to be reviewed is the *N.J.S.A. 34:13-16(g)(9)* which requires me to consider the statutory restrictions placed on the Employer. As noted above, there are no restrictions on the State's ability to fund this Award.

HEALTH INSURANCE PROPOSALS

a. The Proposal

The State has proposed adding the members of the bargaining unit to the State sponsored health insurance program. All of the other bargaining units have agreed to take part in the State sponsored health insurance program.

The Association opposes this change and wishes to continue with its current health insurance coverage. In addition, the Association proposes that instead of paying 35% of the cost of the premium as other State employees do, that the members of the bargaining unit return to paying 1.5% of their salary for health insurance coverage. The Association asserts such a change is appropriate because of improving State finances.

The Association contends that the State is "trying to fix a problem that does not exist." The Association notes that any contract awarded pursuant to this Award will have approximately one year to expiration. The Association reasons that with the continuing COVID-19 pandemic, it makes no sense to change carriers. The Association is critical of the proposed changes because the proposed plan does not adequately provide for use of out of state medical facilities. (Tr. Vol. 1 pp. 94-95).

The Association also contends that the State has not provided information regarding mental health coverage and cost savings. (Tr. Vol. 1 pp. 90-91). The Association criticizes the State for making this proposal solely for purposes of administrative convenience. The Association notes that, up until this moment, the members of the bargaining unit have retained their coverage.

The Association disputes the State's contention that the new plan will keep costs down and notes that costs for the State's plan have continued to rise.

The Association contends that the State has not established why a change in coverage is needed and asks that the status quo be retained.

b. Discussion

I will award the State's proposal with one minor caveat. Unlike the discussion above concerning the wage proposal, I conclude that it makes sense from an administrative and cost perspective to award the State's proposal. Each of the other bargaining units have adopted the proposal set out by the State, and the Association has not come forward with a compelling reason to depart from the pattern. Because of the administrative difficulties and the disruptions to the beneficiaries of a health fund, under my Award, the State is precluded from implementing any change to the existing health benefits and prescription drug plan for at least sixty days from the date of my Award.¹¹

UNIFORM PROPOSALS

Both the Association and the State have proposals concerning uniforms. The proposals are complicated by the fact that there are essentially three categories of employees covered by the Contract. The largest group are the Lieutenants assigned to correction facilities and who, of necessity, must wear a uniform. The second group are non-parole and non-correction Lieutenants, such as those who work for the Community Colleges, the Department of Weights and Measures, the Department of Human Services, and the Palisades Interstate Park Commission. These Lieutenants also must wear a uniform. The third group are the Lieutenants who are assigned to the Parole Board, and who traditionally have not worn uniforms.

¹¹ Sixty is the minimum time to implement the transition, it may be that administratively an additional period of time is needed.

Under the expired agreement, for non-correction Lieutenants, the State agreed to “provide a cash payment of \$1535 in January 2016, 2017, 2018 and 2019 to all employees who are required to wear uniforms.” That Agreement also provides that “Correction Lieutenants are “granted in lieu of a uniform allowance cash payments of \$917.50 in July 2015, January 2016, July 2016, July 2017, July 2018, and January 2019.” As such, the Correction Lieutenants receive two payments for a total of \$1835.00 per year as a uniform allowance. Essentially, the Parole Board employees did not receive a uniform allowance because they were “not required to purchase a uniform and wear it for work.” (Contract Article XXXVI).

The State is now proposing to increase the Correction Lieutenants uniform allowance by 20% and provide two bi-annual payments of \$1,100 for a total of \$2,200 to the Correction Lieutenants. In addition, the State is proposing to increase the uniform allowance of non-Correction Lieutenants. The State is proposing to pay those employees \$1535 in January 2020, January 2021, \$1700 in January 2022, and \$1840 in January 2023. For the first time, the State is also proposing to provide a uniform allowance to Parole Board employees in the event they are required to purchase a uniform. For the period effective January 1, 2021, and June 30, 2021, each Parole Board employee shall receive a uniform allowance of \$850. For the period July 1, 2021, and December 31, 2021, each Parole Board employee shall receive a uniform allowance of \$850. For the period effective January 1, 2022, and June 30, 2022, each Parole Board employee shall receive a uniform allowance of \$920. For the period effective July 1, 2022, and December 31, 2022, each Parole Board employee shall receive a uniform allowance of \$920. The proposal regarding Parole Board employees is identical to the Association’s proposal.

The State contends that this is a significant increase in the uniform allowance, and for the first time provides an allowance for Parole Board employees.

The Association contends that there is no valid reason to distinguish among the various categories of Lieutenants. The Union asserts that, especially for Corrections and non-Correction non-Parole Board Lieutenants, there is no distinction in the cost of the uniforms, and that there is no logical reason for having separate rates. The Union contends that all three categories of employees should receive a uniform allowance at the same rate.

Discussion

With a caveat, I will award the Association's proposal. Thus, all non-Parole Board Lieutenants will receive the same uniform allowance. Except for cost, the State has not come forward with a compelling reason that Correction and non-Correction non-Parole Board Lieutenants should be given different uniform allowances. The cost to the employees is the same for both categories of workers. (Tr. vol. 1, pp.96-97).

Because the requirement that Lieutenants employed by the Parole Board wear uniforms is not firmly established, I will award the State's proposal regarding Parole Board employees. In the event that the State, in its discretion, imposes a uniform requirement, the State will pay the allowance set forth in its proposals. In the event the uniform requirement is terminated, the State's proposal will terminate under its terms.

JUNETEENTH

The Association proposes adding Juneteenth to the list of approved holidays. The Association notes that recent legislation has made Juneteenth a New Jersey State

holiday, and that the current agreement states that new State holidays will be recognized. The State opposes adding Juneteenth as a holiday.

Discussion

I will award the Association's proposal. The State has not come forward with a valid reason for excluding the Juneteenth from the Contract, since every other State holiday is listed in the Contract.

ASSOCIATION COMPENSATORY TIME OFF PROVISION

At present, Lieutenants are permitted to carry over one hundred hours of compensatory time off from one year to the next. The Association proposes increasing the amount of compensatory time off from one hundred hours to two hundred hours. The Association notes that the rank- and-file correction officers represented by PBA Local 105 have this contract provision.

The Association also notes that, currently, if an employee has over one hundred hours in compensatory time at the end of the year, the State pays that employee time and a half for each hour over one hundred hours. The Association characterizes its proposal as providing a cost savings for the State. The Association rejects the State's argument that previously there had been abuse of the compensatory time provision. The Association points to the testimony of Ms. Warner and asserts that she was unable to point to any particular instance of abuse by the Lieutenants. (Association Brief at p. 41 citing Tr. Vol. 1 pp. 178-179).

The State rejects this proposal, and notes that the Association has not established how many employees would be affected by this proposal. The State posits that granting this proposal would lead to staffing issues when compensatory time is used.

Discussion

I will not award the Association's proposal. The State has offered compelling arguments that granting the increase in compensatory time by one hundred hours would complicate staffing at the correction facilities. It is noteworthy that, economically, the members of the bargaining unit are not harmed since they are paid time-and-a-half if they reach the 100-hour limit.

GRIEVANCE PROCEDURE

Both the Association and the State have made proposals to modify the grievance procedure. At present, a grievance must be filed within fifteen calendar days from the date of the events giving rise to the grievance¹². Following the filing of the grievance, a hearing is scheduled. Decisions on the grievance are considered timely if rendered within 3 days of the conclusion of the hearing at Step One or within ten working days of the receipt of the grievance whichever is later. Once the grievance is appealed to Step Two, a decision is considered timely if it is rendered within 15 days after the conclusion of the Step Two hearing or within fifteen working days of the receipt of the appeal of the Step One decision whichever is later. The Association is seeking to modify Article X § E(4) of the Contract. That provision provides:

Should a grievance not be satisfactorily resolved, or should the employee not respond within the prescribed time periods, either after initial receipt of the grievance or after a hearing, the grievance may be appealed within five (5) working days to the next step. The lack of response by the State within the prescribed time periods, unless time limits have been extended by mutual agreement, should be construed as a negative response.

¹² Salary disputes must be filed within 90 days. (Contract Art. X § E (2)).

In light of the COVID-19 pandemic, the Association points to delays in moving grievances from Step 1 to Step 2. The Association seeks to have an automatic appeal from Step 1 to Step 2 if there is no response from the State. The Association notes that the current contractual language provides that “a non-response should be considered a denial, and that if not timely appealed to the next step, absent mutual consent to extend deadlines, the grievance is waived.” (Association Brief at 42). The Association notes that if the State delays, there is no consequence to the State, but if the Association does not timely process the grievance to the next step, the grievance is waived.

The State’s proposal seeks to mandate that all grievances are filed in writing and based on the date the grievant “or Association become aware [of the grievance] and that any grievance not timely filed shall be ‘null and void.’” (State Brief at 64). In addition, the State seeks to change the time frames from working days to calendar days. The State seeks to change the time to appeal to five calendar days exclusive of weekends and holidays. The State also seeks to guarantee that agreements to extend the deadlines set forth in the Contract be made in writing. In addition, the State seeks to have written requests made to the Office of Employee Relation be made in writing in order to be valid.

Citing Ms. Warner’s testimony, the State contends that its proposals seek to clarify and improve the grievance process and to improve time frames by explicitly using calendar days excluding weekends. The State also seeks to guarantee that any agreements to extend time frames be made in writing. (State Brief at 64, citing Vol. 1 Tr. p. 168). The State maintains that its proposal would enhance clear lines of communications, clarify existing practices, and by excluding weekends and holidays provide the Association with greater time to respond.

Asserting that the State's proposals unnecessarily shorten time limits and add a clause which would result in the waiver of grievances for timeliness issues the Association rejects the State's proposals. The Union also asserts that oral grievances at the early stages of the grievance process are common in law enforcement and have been used in this current agreement without issue.

Discussion

There are several different elements to the parties' proposals to modify the grievance procedure. I will not award either the Union's or the State's proposal. Neither party has demonstrated a compelling need for altering the grievance procedure. The grievance procedure is the most intricate component of the parties' relationship. While the grievance procedure may be flawed, given the parties long time relationship, under the circumstances of this case, I conclude that absent a glaring problem with the grievance procedure modifications to the procedure should not be imposed by a third party. There is no indication that there are an inordinate number of grievances generated under the current agreement.

ARBITRATION

The State is seeking to amend the arbitration provision to ensure that arbitrators do not rule on any grievance which is either untimely filed, or untimely appealed during the grievance procedure or to arbitration. The State is also seeking to amend the arbitration provision to require arbitrators to rule on the procedural timeliness issues before ruling on any substantive matters.

The State contends that its proposal makes the arbitrator's authority clear. The State also notes that other bargaining units have agreed to similar provisions.

Discussion

I will not award this proposal. The State has not come forward with a compelling reason for altering the arbitration provision.

PROMOTIONS

The Association is proposing that employees who are promoted to the rank of Lieutenant shall have their salaries governed by *N.J.A.C. 4A:3-4.9*. The Association notes that rank-and-file correction officers are governed by a similar provision. The Association asserts that granting this proposal will result in minimal cost to the State.

The State recognizes the statute but contends that the amendment to the current Contract is unnecessary.

Discussion

I will not award this proposal. Article XIII B (3) of the current agreement largely incorporates this provision, and the Association has not demonstrated why a modification is required.

ADMINISTRATIVE LEAVE

Currently, employees are entitled to three administrative leave days, which are cancelled if not used. Administrative leave days are in lieu of vacation days. (Tr. Vol. 1 p. 106). The Association is proposing that the administrative leave be compensatory leave on an hour for hour basis. The Association asserts that because of the COVID-19 pandemic, the Lieutenants are finding it difficult to use their administrative leave. Lieutenant Crenny testified that, because of the COVID-19 pandemic, the State had permitted the members of the bargaining unit to carry over their administrative leave time.

(Tr. Vol. 1 pp. 106-107). The Association asserts that this should be a permanent modification to the agreement.

The State opposes this modification. The State notes that this proposal has not been costed out, and states that this issue was not initially designated in the interest arbitration petition.

Discussion

I will not award this proposal. The Association has not established that the present system needs to be modified.

DISCIPLINE

This is a notice provision for Department of Probation Lieutenants. The State is seeking to modify the current agreement to have a 45-day notice for discipline sent to the Chairman instead of the Vice-Chairman of the Parole Board. The Association's brief is silent on this issued.

Discussion

I will award this provision.

PERSONAL PREFERENCE DAYS

Under the current agreement, the Lieutenants are permitted to designate a "personal preference day" in lieu of a regularly scheduled holiday. The State wants to modify the agreement to provide: "The alternative day off in lieu of the holiday, other than Christmas, must occur after the specified holiday. Preference days in lieu of Christmas may be taken before the holiday." If for example, the Lieutenant wishes a personal preference day in July, he or she might agree to work the July 4th Holiday. The State is

seeking to modify the Contract to provide that the designated day may be taken anytime after July 4th and not before the holiday.

The State contends that the Lieutenant should earn the personal preference day by first working the designated holiday. The Association notes that, on November 16, 2020, Arbitrator Steven Kasarda found that under the current agreement, the State may not require an employee to take a personal preference day after the designated holiday, and that the employee may take the personal preference day prior to the designated holiday. (*New Jersey Superior Officers Law Enforcement Association and State of New Jersey*, PERC AR-2020-390, (Kasarda, Arb. 2020), Assoc. Ex. 87). The Association notes that employees who do not work their designated holiday are precluded from having a personal preference day for a year. The Association contends that the State is trying to secure through this interest arbitration what it could not achieve in negotiations or in the arbitration before Arbitrator Kasarda.

Discussion

I will not award this proposal. The State has not established that there is a compelling need to change the provision. As noted by the Association, a Lieutenant who does not work on the designated holiday is precluded from having a personal preference day for one year.

LEAVE OF ABSENCE WITHOUT PAY

Article XXIV of the Contract provides in pertinent part: "A permanent employee, upon written application setting forth the reason, may be granted a leave of absence without pay for a maximum period of one (1) year." The State is seeking to require the

employee who has requested the leave to “utilize consecutive or intermittent leave” within one year. (State Brief at 67).

The Association asserts that the State has not offered evidence to justify the proposed change. The Association also asserts that the provision as it exists is consistent with *N.J.A.C.*, 4A:6-1.10. The Association asks that this request be denied.

Discussion

I will not award this proposal. The provision as written is consistent with the governing statute.

DYNAMIC STATUS QUO

Both parties have made proposals regarding wage increases at the termination of the Contract. The proposals are very similar, and the Association has indicated that it will accept the State’s proposed language which is: “Increments for those not at the top step shall continue to be on their anniversary date to eligible employees in accordance with the State Compensation Plan after expiration of the Agreement.” This proposed language assures that members of the bargaining unit who are not at the top step continue to receive their salary increments when the Contract expires. I will award this proposal.

ACCESS TO PREMISES

The Workplace Democracy Enhancement Act (WDEA) permits “exclusive representative employee organizations” (Unions) to use a public employer’s email system to communicate with members of a bargaining unit. The State is proposing to insert language into the Contract that is explicitly derived from the WDEA. However, the state wants to add the following sentences: “The Association’s use of the State email system

shall comply with all applicable laws, regulations work rules and policies. The State shall not be responsible for the Association's use of the State's email system."

The Association opposes inserting this language into the Contract and characterizes the change as an "unnecessarily burdensome" addition to the Contract.

Discussion

I will Award this proposal. I find it to be a reasonable statement of the Association's rights.

VI. SUMMARY OF AWARD

Pursuant to the discussion set forth above the Contract shall be amended as follows:

1. Awarded Terms

Article VII, Access to Premises – Revise Section A to include a new Paragraph 5;

The Association shall have the right to use the State's email systems to communicate with negotiations unit members regarding collective negotiations, the administration of this Agreement, the investigation of grievances, other workplace related complaints and issues, and internal Association matters involving the governance or business of the Association. The Association's use of the State email system shall comply with all applicable laws, regulations, work rules, and policies. The State shall not be responsible for the Association's use of the State's email system.

Article XI, Discipline: Section L Subsection 4, General Provisions -Revise §4B as follows:

For the purpose of this sub-section, the following individuals, or their respective designees, shall be the appointing authority for the respective Department or Agency: Administrator (Corrections); Chairman Vice-Chairman (Parole); Superintendent (Juvenile Justice); Director of Administration (Treasury); Human Resources Director (Human Services); Superintendent (Palisades Interstate Park Commission);

Director of Human Resources (Environmental Protection); Superintendent (Law and Public Safety); Assistant Vice President of Labor Relations (Rowan University); and Vice President or Director of Human Resources (all other State Colleges).

Article XV, § A –Holidays: Juneteenth is added to the list of holidays.

Article XLV – Term of Agreement – July 1, 2019 through June 30, 2023 (4-year Agreement);

Article XIII, §B. 1. – Compensation Adjustment – retroactive wage adjustments for all eligible employees in the unit as of the date of the adjustment:

- | | | |
|----|---|-------|
| a. | Effective retroactive to the first pay period following October 1, 2019: | 2.00% |
| b. | Effective retroactive to the first pay period following July 1, 2021: | 2.00% |
| c. | Effective retroactive to the first pay period following December 1, 2021: | 3.00% |
| d. | Effective first pay period following July 1, 2022: | 3.00% |

The increase shall apply to employees who were no longer in the negotiating unit, but who were on payroll as of the date on which the increase is to be retroactively applied.

Article XIII, §B. 2.c Salary increments: Increments for those not at top step shall continue to provide on their anniversary dates to eligible employees in accordance with the State Compensation Plan after expiration of the Agreement.

Article XIII, §B. 3 Salary upon promotion: Delete and replace the existing language with the following language: "Effective as soon as practicable following ratification of this Agreement, any employee who is promoted to any job title represented by NJSOA shall receive a salary increase in accordance with *N.J.A.C. 4A:3-4.9*."

ARTICLE XXXV

No earlier than sixty days from the date of this Interest Arbitration award. The State may implement the following changes to the bargaining unit's health insurance coverage:

HEALTH BENEFITS

Fringe Benefits

A. State Health Benefits Program

As with any provisions of this Agreement that reflect statutory or regulatory mandates, the provisions of paragraphs (A)(B)(C) and (G) of this Article, are for informational purposes only and provide an explanation which is subject to change due to legislative action.

5. The State Health Benefits Program is applicable to employees covered by this Contract. It is agreed that, as part of that program, the State shall continue the Prescription Drug Benefit Program during the period of this Agreement to the extent it is established and/or modified by the State Health Benefits Plan Design Committee, in accordance with P.L. 2011, c. 78. The State Health Benefits Plan Design Committee shall provide to employees the option to select one of at least three levels of coverage each for family, individual, individual and spouse and individual and dependent, or equivalent categories, for each plan offered by the program differentiated by out-of-pocket costs to employees including co-payments and deductibles. Pursuant to P.L. 2011, c. 78, the State Health Benefits Plan Design Committee has the sole discretion to set the amounts for maximums, co-pays, deductibles, and other such participants' costs for all plans in the program and has the sole discretion to determine the plan offering and coverage levels under the program.
6. Effective July 1, 2003, the Traditional Plan shall be closed as to all current and future members of this bargaining unit, including unit members retiring after said date. The Traditional Plan and the NJ Plus POS Plan have been abolished. Effective immediately, no new hires shall be enrolled in the Traditional Plan.
7. Medicare Reimbursement – Effective January 1, 1996, consistent with law, the State will no longer reimburse active employees or their spouses for Medicare Part B premium payments.
8. As soon as practical after ratification, the new NJ Direct plan (available to employees hired prior to July 1, 2019) and NJ Direct 2019 plan (available employees hired on or after July 1, 2019) will be the only PPO Plan available to active negotiations unit members.

B. Contributions Towards Health and Prescription Benefits

1. Employees shall contribute, through the withholding of the contribution from the pay, salary, or other compensation, toward the cost of the health care benefits coverage for the employee and any dependent provided under NJ Direct and NJ Direct 2019 through the State Health Benefits Program in an amount that is a percent of salary to the cost of the premium:

- Active members participating in an HMO plan or High Deductible Plan (HDHP) will contribute a percentage of premium.

- Active members participating in a Tiered Network plan shall contribute at a rate that is equal to 75% of the new PPO plan contribution rate.
 - The contribution rates for available plans may be found on the Division of Pension and Benefits website.
2. Effective for benefits plan year starting January 1, 2021, the employee contribution amounts are subject to the agreed upon reopener provisions as set forth in Appendix IV. The parties recognize that any agreements by the parties reached during the reopener discussions regarding plan design are subject to the approval of an implementation by the Plan Design Committee.
 3. The amount payable by any employee, pursuant to N.J.S.A. 52:14-17.28(c)(2) (added by L. 2010, c.2) shall not under any circumstance be less than the 1.5 percent of the base salary. No employee shall contribute more than the employee would have contributed under section 39 of P.L. 2011 c. 78 (C. 52:14-17.28c)
 4. The parties agree that should an employee voluntarily waive all coverage under the State Health Benefits Plan and provide a certification to the State that he/she has other health insurance coverage, the State will waive the contribution for the employee.
 5. An employee on leave without pay who receives health and prescription drug benefits provided by the State Health Benefits Program shall be required to pay the above-outlined contributions and shall be billed by the State for these contributions. Health and prescription benefit coverage will cease if the employee fails to make timely payment of these contributions.
 6. Active employees will be able to use pre-tax dollars to pay contributions to health benefits under a Section 125 premium conversion option. All contributions will be by deductions from pay.
 7. Eligible negotiations unit employees and their spouses who complete the NJ Well Program shall each receive a \$350 incentive.

C. Dental Care Program

5. It is agreed that the State shall continue the Dental Care Program during the period of this Agreement to the extent it is established and/or modified by the State Health Benefits Plan Design Committee, in accordance with P.L. 2011, c. 78. Through December 31, 2011, active eligible employees are able to participate in the Dental Care Program as described in the parties' July 1, 2007 – June 30, 2011 collective negotiations agreement. Pursuant to P.L. 2011, c. 78, the State Health Benefits Plan Design Committee has sole discretion to set the amounts for maximums, co-pays, deductibles, and other such participant costs for all plans in the program and has the sole discretion to determine the plan design, plan offering and coverage levels under the program.

6. Participation in the Program shall be voluntary with a condition of participation being that each participating employee authorize a bi-weekly salary deduction as set by the State Health Benefits Design Committee not to exceed fifty percent (50%) of the cost of the type of coverage elected, e.g., individual employee only, husband and wife, parent and child or family coverage.
7. Each employee shall be provided with a brochure describing the details of the Program, enrollment information and the required forms.
8. Participating employees shall be provided with an identification card to be utilized when covered dental care is required.

The provisions of Sections (A), (B) and (C) of this Article are for informational purposes only and are not subject to the contractual grievance/arbitration provisions of Article XI.

D. Eye Care Program

1. Full-time employees and eligible dependents shall be eligible for the State-administered Eye Care Program. The Program shall provide for each eligible employee and dependent to receive a \$40 payment for prescription eyeglasses with regular lenses and a \$45 payment for such glasses with bi-focal lenses. Each eligible employee and dependent may receive only one (1) payment during the two (2) year period ending June 30, 2021 and only 1 payment during the two (2) year period commencing July 1, 2021. The extension of benefits to dependents shall be effective only after the employee has been continuously employed for a minimum of sixty (60) days.
2. Eligible dependents of full-time employees shall be eligible for a maximum payment of \$35 or the non-reimbursed cost whichever is less, of an eye examination by an Ophthalmologist or Optometrist, during the two (2) year period ending June 30, 2021 and only one payment during the two (2) year period commencing July 1, 2021.
3. Proper affidavits or forms and submissions of receipts are required of the member in order to receive payment.

E. Insurance Savings Program

Subject to any condition imposed by the insurer, all employees shall have the opportunity to voluntarily purchase various insurance policies on a group participation basis. The policy costs are to be borne entirely by the employee selecting insurance coverage provided in the program. The State will provide a payroll deduction procedure whereby authorized monies may be withheld from the earned salary of such employees and remitted to the insurance company. The insurance company will provide information concerning risk covered, service offered, and all other aspects of the program to each interested employee.

F. Health Insurance For Retirees

Those employees who have 20 or more years of creditable service on the effective date of P.L. 2011, c. 78 who accrue 25 years of pension credit or retire on a disability retirement on or after July 1, 2011 will contribute 1.5% of the monthly retirement allowance toward the cost of post-retirement medical benefits as is required under law. In accordance with P.L. 2011, c. 78 the Retiree Wellness Program no longer applies.

Upon retirement, an active employee who is not Medicare eligible and who retires with 25 years of pensionable service after the enrollment date established in accordance with Section A4 of this Article shall be offered the option to enroll in the NJ Direct/NJ Direct 2019 plan at the time of retirement.

a. Current retirees and active employees who have accrued 25 years of pensionable service prior to the enrollment date established in accordance with Section A4 of this Article shall be offered the same plans in retirement as available at the time s/he acquired 25 years of pensionable service, as required by law and shall also be offered the option to enroll in the NJ Direct/NJ Direct 19 PPO plan based on the contribution rate required at the time s/he reached 25 years of service.

b. If an employee acquires 25 years of pensionable service after the enrollment date established in accordance with Section A4 of this Article, that employee shall contribute to the cost of health benefits in retirement based on the contribution rates of active employees, as established by this agreement, at the time of the retirement. Such employee shall have access to the plans available at the time s/he acquired 25 years of pensionable service.

The provisions of this Article are for informational purposes only and are not subject to the contractual grievance/arbitration provisions of Article X.

H. Temporary Disability Plan

All employees in this unit are covered under the State of New Jersey Temporary Disability Plan. This is a shared cost plan, which provides payments to employees who are unable to work as the result of non-work connected illness or injury and who have exhausted their accumulated sick leave.

I. Deferred Compensation Plan

It is understood that the State shall continue the program which will permit eligible employees in this negotiating unit to voluntarily authorize deferment of a portion of their earned base salary so that the funds deferred can be placed in an Internal Revenue Service approved Federal Income Tax exempt investment plan. The deferred income so invested, and the interest or other income return on the investment are intended to be exempt from current Federal Income Taxation until

the individual employee withdraws or otherwise receives such funds as provided in the plan

It is understood that the State shall be solely responsible for the administration of the plan and the determination of policies, conditions and regulations governing its implementation and use. The State shall provide literature describing the plan as well as a required enrollment or other forms to all employees. It is further understood that the maximum amount of deferrable income under this plan shall be consistent with the amount allowable by law.

Appendix IV - Health Care Reopener (NEW)

5. The actual premium cost for the new PPO plans, inclusive of medical and prescription costs, will be tracked each plan year following the plan's initial offering in plan year 2019.
6. In addition, the new PPO premium cost increases will be monitored and compared to the national, regional and state trending of healthcare costs.
7. Calculations:
 - d. If the projected blended premium for the new PPO in a plan year exceeds the "Baseline Premium", the Union and the State shall enter into negotiations to lower the premium and/or reduce the rate of premium increases. Such negotiations will commence upon receipt of the SHBP actuary's rate renewal recommendation premium for the upcoming plan year, in or about the preceding July.
 - e. The Union and the State shall also calculate the "Adjusted Premium Increase" ("API"). The API shall be calculated by (a) subtracting the aggregate percent of across-the-board salary increases received by represented State employees covered by this contract, not compounded, from (b) the percent by which the 2019 PPO premium exceeds the Preliminary Baseline Premium.
 - f. Commencing in Plan Year 2019, the preliminary baseline premium rates shall be the following blended premiums – Single coverage - \$9,570; Parent/Child coverage - \$19,140; Employee/Spouse - \$17,800; and Family \$27,370 – plus 3% ("Preliminary Baseline Premium").

Plan Year 2021:

- e. If the projected blended premium for the new PPO plans in plan year **2021** exceeds the Preliminary Baseline Premium from plan year 2019, the Union and the State shall enter into negotiations to address such premium increases.
- f. The API for Plan Year 2021 shall be calculated by (a) subtracting the aggregate percent of across-the-board salary increases received by represented State employees covered by this contract, between July 1, 2019 and December 31, **2020**, not compounded, from (b) the percent by which the new PPO premium

exceeds the Preliminary Baseline Premium. For example, if the **2021** PPO premium is 8% more than the Preliminary Baseline Premium and if employees have received an aggregate of 6%, non-compounded, across-the-board salary increases since July 1, 2019, the API is 2%.

- g. If the Union and the State cannot agree upon plan design changes or other cost-saving measures that would reduce the API to at least a 0% increase over the Preliminary Baseline Premium by the September 1 preceding the start of the **2021** plan year, then an Escalator shall be applied to employee contribution rates. The Escalator to be applied to employee contribution rates shall be the percentage by which the API exceeds the Preliminary Baseline Premium. For example, if the API is 2%, then the Escalator is also 2%, which is applied to the employee's contribution rate. If an employee's contribution rate is 5% of base salary, then by applying the Escalator, the contribution rate will increase to 5.1% of base salary. Any increase in employee contributions will be effective the first pay period of the **2021** plan year.
- h. If the 2021 premium is below the Preliminary Baseline Premium by 6% or more, the Union and the State shall discuss options to share the savings in reduced costs or to improve the quality of the new PPO plans through design changes or other measures. If the Union and the State do not agree to either reduce costs or improve the quality of the new PPO plans or agree upon a reduction in the employee contribution rates by September 1 preceding the start of the plan year, then contribution rates shall be reduced by the application of a De-escalator. The De-escalator shall be the amount of the decrease in the new PPO 2020 premium below 6% of the Preliminary Baseline Premium. For example, if the 2021 premium is 6.5% below the Preliminary Baseline Premium, employee contribution rates shall be reduced by 0.5%. If an employee's contribution rate is 5% of base salary, then by applying the De-escalator the employee's new contribution rate shall be 4.975%. Any decrease in employee contributions will be effective the first pay period of the 2021 plan year.

Plan Year 2022

- a. **The Baseline Premium for 2022 plan year shall be** the baseline premium is the PPO Plan's premium cost in plan year **2021 plus 1%**.
- b. If the projected blended premium for the PPO in plan year **2022** exceeds the new Baseline Premium, the Union and the State shall enter into negotiations to address such premium increases.
- c. The API shall be calculated by (a) subtracting the aggregate percent of across-the-board salary increases received by represented State employees covered by this contract, **between July 1, 2021 and December 31, 2021**, not compounded, from (b) the percent by which the PPO premium exceeds the 2022 Baseline Premium.

- d. If the Union and the State cannot agree upon plan design changes or other cost-saving measures that would reduce the API to at least a 0% increase over the Preliminary Baseline Premium by the September 1 preceding the start of the **2022** plan year, then an Escalator shall be applied to employee contribution rates. The Escalator to be applied to employee contribution rates shall be the percentage by which the API exceeds the Preliminary Baseline Premium. Any increase in employee contributions will be effective the first pay period of the **2022** plan year.
- e. Each subsequent plan year's PPO Plan's premium cost will be compared with previous year's PPO Plan's premium cost which will become the new Baseline Premium. The same process and methodology shall be used to review, and if necessary, adjust, employee contributions rates, every year thereafter.

Article XXXVI- UNIFORM ALLOWANCE

All eligible employees with the exception of Parole Officers who are required to wear uniforms for work during any portion of any year during the term of this Agreement who are or were in the unit as of the date of the uniform allowance listed below regardless of pay status shall receive a retroactive uniform allowance, with the exception of Parole, as follows:

- \$917.50 in July 2019 to those employees with at least one (1) year of service as of June 30, 2019;
- \$1,100.00 in January 2020 to those employees with at least one (1) year of service as of December 31, 2019;
- \$1,100.00 in July 2020 to those employees with at least one (1) year of service as of June 30, 2020;
- \$1,100.00 in January 2021 to those employees with at least one (1) year of service as of December 31, 2020;
- \$1,100.00 in July 2021 to those employees with at least one (1) year of service as of June 30, 2021;
- \$1,100.00 in January 2022 to those employees with at least one (1) year of service as of December 31, 2021;
- \$1,100.00 in July 2022 to those employees with at least one (1) year of service as of June 30, 2022; and
- \$1,100.00 in January 2023 to those employees with at least one (1) year of service as of December 31, 2022.

Parole: No allowance will be paid to employees who are not required to purchase a uniform and wear it for work. Accordingly, as of ratification of this Agreement, unit

members working in Parole are not eligible for a uniform allowance. In the event Parole employees are required to wear uniforms for work during any portion of any year for the term of this Agreement, the State agrees to a uniform maintenance allowance for the affected employees as follows:

- Should employees be required to wear a uniform anytime between January 1, 2021 and June 30, 2021, each employee shall receive \$850.00 in July 2021. Only those employees with at least one (1) year of service as of June 30, 2021 shall be entitled to this payment;
- Should employees be required to wear a uniform anytime between July 1, 2021 and December 31, 2021, each employee shall receive \$850.00 in January 2022. Only those employees with at least one (1) year of service as of December 31, 2021 shall be entitled to this payment;
- Should employees be required to wear a uniform anytime between January 1, 2022 and June 30, 2022, each employee shall receive \$920.00 in July 2022. Only those employees with at least one (1) year of service as of June 30, 2022 shall be entitled to this payment;
- Should employees be required to wear a uniform anytime between July 1, 2022 and December 31, 2022, each employee shall receive \$920.00 in January 2023. Only those employees with at least one (1) year of service as of December 31, 2022 shall be entitled to this payment.

Subsequent to a Uniform Policy being put in place that requires payment of a uniform allowance, should the State Parole Board in its sole discretion determine it will no longer require State Parole Board employees to wear a uniform, then the obligation to pay the above uniform allowance shall cease.

For all Employees:

Effective for the Uniform Allowance payable in January 2022 and each January thereafter, employees that did not report to work for more than six full pay periods during the first thirteen pay periods of the Fiscal Year shall not receive a Uniform Allowance payment in January. Effective for the Uniform Allowance payable in July 2021 and each July thereafter, employees who did not report to work for more than six full pay periods during the second thirteen pay periods of the Fiscal Year shall not receive a Uniform Allowance payment in July. Notwithstanding the foregoing, for any full pay period during which an employee was unable to report to work due to: (a) having tested positive for COVID-19; (b) due to the need to quarantine because of having close contact with someone that tested positive for COVID-19; (c) being on a leave of absence while receiving Workers' Compensation benefits due to a work-related injury or illness; or (d) being on a leave of absence related to pregnancy, said time away from work shall not count against the employee for purposes of determining eligibility for the Uniform Allowance set forth above. Instead, the employee will be deemed to have reported to work during that pay period. References to COVID-19 in this paragraph in relation to eligibility requirements shall expire as of June 30, 2023.

It is understood that employees who are promoted to any of the titles in this unit and who had been issued a uniform at another rank which is still the appropriate uniform, will only be issued a new insignia and/or badge as required by the appointing authority.

It is understood that the above cash payments are to be used for items of uniform or their maintenance and that all employees in the unit are expected to meet prescribed standards and regulations concerning individual items of uniform which are required and the reasonable standards of maintenance of such uniforms.

No allowance will be paid to employees who are not required to purchase a uniform and uniforms for work, the term of this Agreement, the State agrees to negotiate with the union the appropriateness of a uniform maintenance allowance for the affected employees

2. Stipulated Terms

My Award also incorporates the following Stipulated Terms:

ARTICLE IV

NON-DISCRIMINATION

Revise Article IV to state:

The provisions of this Agreement shall be applied equally to all employees. The Association and the State agree that there shall not be any discrimination, including harassment based on race, creed, color, national origin, nationality, ancestry, age, sex, familial status, marital status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for military service, mental or physical disability, including perceived disability and AIDS and HIV status, domestic partnership, political affiliation, Association membership, lawful membership activities or activities provided in this agreement, pregnancy or breastfeeding, gender identity or expression, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer.

ARTICLE VI

DUES DEDUCTION

Section A: Membership Dues

Paragraph 5: Add new Paragraph 5 stating as follows:

Within 10 calendar days from the date of hire of negotiations unit employees, the Employer shall provide the following contact information to the Association in a digital format agreed to by the Union: name, job title, worksite location, home address, work telephone numbers, and any home and personal cellular telephone numbers on file with the Employer, date of hire, and work email address and any

personal email address on file with the Employer. Every 120 calendar days beginning on January 1, 2019, the Employer shall provide the Association the same information for all unit employees in a digital format agreed to by the Union.

Paragraph 6: Add new Paragraph 6 stating as follows:

Notice of Dues and Fees: Prior to the beginning of each agreement year, the Association will notify the State in writing of the amount of regular membership dues, initiation fees and assessments charged by the Association to its own members for that agreement year.

Paragraph 7: Add new paragraph 7 stating:

Indemnification: The Association hereby agrees that it will indemnify and hold the State harmless from any claims, actions, or proceedings brought by any employee in the negotiation's unit, which arises from deductions made by the State in accordance with this provision.

Paragraph 8: Add paragraph 8 stating:

Legal Requirements: Provisions in this clause are further conditioned upon all other requirements set by statute.

Paragraph 9: Add new paragraph 9 stating:

If, after the State receives a proper notice from an employee revoking dues authorization, the State mistakenly deducts union dues from the employee and transmits dues to the Association, the Association shall be solely responsible for returning to the employee the dues it received.

Paragraph B: Delete in its entirety

ARTICLE VII, ASSOCIATION RIGHTS
PARAGRAPH A, ACCESS TO PREMISES
NUMBER 3

NUMBER 3

Where a problem occurs which is of such consequence as to suggest the need for a higher than institutional level Association representative, a request to permit a member of the Executive Board access to the location of the problem may be directed to the Office of Employee Relations for approval. A decision and any conditions imposed by the Office of Employee Relations shall be final. Approval of such requests shall not be unreasonably withheld, and the Association shall have the right to grieve the matter of reasonableness.

ARTICLE VIII, ACCESS TO PERSONNEL FOLDERS AND EVALUATIONS PARAGRAPH C

PARAGRAPH C

An employee may request the expungement of materials included in the folder where there are pertinent and substantive factual inaccuracies or for reasons of time duration, relevance or fairness. Such requests will be evaluated in relation to the State's need for comprehensive and complete records but will not be unreasonably denied.

ARTICLE VIII, ACCESS TO PERSONNEL FOLDERS AND EVALUATIONS ADD PARAGRAPH E,

Any employee records that contain medical information to include any notes to substantiate an absence shall be maintained in a secure and separate file apart from the regular personnel file. All efforts will be made to protect the employee's medical information from those individuals that should not have

ARTICLE XIII SALARY COMPENSATION PLAN and PROGRAM PARAGRAPH A, ADMINISTRATION NUMBER 2

The State agrees that all regular bi-weekly paychecks be accompanied by a current statement of earnings and deductions and cumulative year-to-date earnings and tax withholdings. All overtime hours shall be included in the regular bi-weekly paycheck.

ARTICLE XX, SICK LEAVE

PARAGRAPH E, SICK LEAVE WHILE ON VACATION NUMBER 1

When an employee is on vacation and requires sick leave for any portion of that vacation leave, he must immediately request the use of accumulated sick leave, in accordance with

State regulations, through the designated authority. Such requests may be made by telephone, telegram, *email* or letter, but if by phone, should be confirmed by telegram, *email* or letter to clearly establish time of request. No sick leave will be credited unless supporting medical evidence verifying the illness or injury, which would have precluded working, is presented.

ARTICLE XXV, SECTION D LEAVE FOR ASSOCIATION ACTIVITY

Revise Section D as follows:

Application for any leave pursuant to this Article shall be submitted in writing to the Governor's Office of Employee Relations at least fourteen (14) days in advance to be reviewed for contractual compliance, and then forwarded to the affected department to determine if the request will cause an undue hardship on the department. Timely requests will not be unreasonably denied. Leaves will only be granted to individuals authorized by an Association Executive Board Member.

SIDE LETTER OF AGREEMENT

RECIPROCAL PROCEDURE

Create Side Letter of Agreement stating:

The Parties acknowledge that the Department of Corrections will extend Internal Management Procedure CUS.001.RDR.01, titled Reciprocal/Double Reciprocal Procedure, for an additional year, so that it will remain effective from June 15, 2019 through June 14, 2020. If the Department of Corrections decides to discontinue the practice described in Internal Management Procedure CUS.001.RDR.01 it will provide the Association with 30 days advanced written notice and the State agrees, at the Association's written request, to meet and discuss the decision.

3. Non-Awarded Proposals

All proposals by the New Jersey Superior Officers Law Enforcement Association and the State of New Jersey not awarded herein are denied and dismissed. All provisions of the existing Collectively Negotiated Agreements shall be carried forward

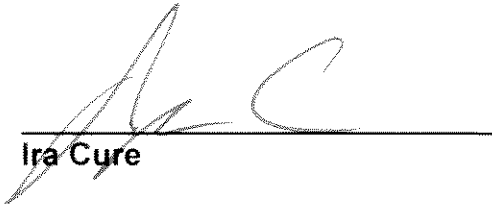
except for those which have been modified by the terms of this Award and any prior agreements between the parties.

VII. CERTIFICATION

I have given due weight to the statutory criteria set forth in *N.J.S.A. 34:13A-16(g)*, and I conclude that the terms of this Award represent a reasonable determination of the issues.

Dated: April 17, 2022

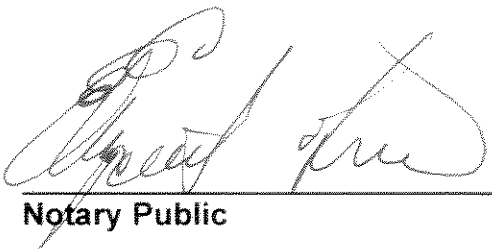
Brooklyn, New York



Ira Cure

State Of New York }
County of Kings }

On this 17th day of April 2022 before me personally came and appeared Ira Cure to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me he executed the same.



Notary Public

ELIZABETH ORFAN
Notary Public, State of New York
No. 02OR4976601
Qualified in Kings County
Commission Expires April 23, 2023