

Organization of NYS Management and Confidential Employees
Written Testimony
Executive Director-Heath Morris
Joint Committee on Labor and Workforce
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11,000 employees of the State of New York serve in positions designated Managerial or Confidential. They have long been treated differently than their union-represented coworkers. These non-union "M/C" employees suffer with inferior compensation and benefits as well as diminished job protections but lack the legal means to address these discrepancies through collective bargaining. The Organization of New York State Management Confidential Employees (OMCE) is the sole advocate for M/C employees in these matters. OMCE's legislative agenda strongly restates the immediate need for parity and equal treatment between the M/C and the union-represented employees.

M/C employees **MUST** have the right to:

FAIR and EQUITABLE COMPENSATION
EQUAL BENEFITS
DUE PROCESS PROTECTIONS IN THE WORKPLACE
ORGANIZE and MAINTAIN THEIR ASSOCIATIONS
COMPENSATION IN BALANCE WITH SUBORDINATE STAFF
SECURE RETIREMENT

The **New York State Senate** and the **New York State Assembly** have the power and ability, as well as the moral responsibility, to remedy the following shortcomings:

FAIR and EQUITABLE COMPENSATION

ISSUE: M/C Employees Often Earn LESS than comparable Unionized Employees.

Salary Schedules for union-represented employees do not consistently align with Salary Schedules of M/C employees at the very same or equivalent Salary Grade levels and titles. As a result, certain union-represented employees at the same Salary Grade or its equivalent may earn \$2,000 to \$3,000 more annually than their M/C counterparts!

SOLUTION: Support and pass S.1722/A.2743

ISSUE: M/C Employees are NOT Guaranteed Same Raises as Unionized Employees

Union employees receive annual general salary increases consistent with their labor contracts while their M/C counterparts are not guaranteed equal treatment. In fact, in 2009 and 2010, union-represented employees received 3% and 4% raises, respectively, while M/C employees received ZERO for both years. In April 2020 union-represented employees received their general salary increase, but this same raise for M/C employees was delayed a full year until summer 2021.

SOLUTION: Support and pass S.1750/A.2676

ISSUE: Most M/C Employees NOT Paid Longevity Bonus Unionized Employees receive

Longevity payments, also referred to as “performance rewards,” are paid to eligible union-represented employees at ALL Salary Grades. By contrast, ONLY M/C employees at or below Grade 17 are eligible to receive this payment. Accordingly, 9,000 or more M/C employees will never receive a longevity lump sum payment under the current plan. The value of this payment varies between \$1500 and \$4500 per year. This is not only a lack of fundamental fairness, but a disincentive for rank-and-file State employees to accept promotions to M/C-designated positions.

SOLUTION: Support and pass S.1739/A.2680

ISSUE: M/C Employees NOT Paid the Higher Education Differential Paid to Unionized employees. By contrast, PEF-represented employees are eligible for a \$600 annual differential if they possess a degree or qualifying credential. Employees who are promoted to or transfer to M/C positions lose this payment!

SOLUTION: Support and pass S.7829/A.8553

ISSUE: Performance Advances of M/C Employees have been unjustly delayed but paid timely to Unionized employees.

Performance Advancement adjustments are made on a routine, annual basis to all State employees, regardless of union-representation, as they advance within their Salary Grade. These adjustments stop when an employee reaches the top of their respective Salary Grade. For most M/C employees, this annual adjustment can range from \$2,000 to \$5,000 each year for up to six years. On at least two occasions, the most recent being

in 2020, M/C employees did not receive their Performance Advancement adjustments on a timely basis. These adjustments were NOT delayed for union-represented employees! Such adjustments reflect an increase in pay commensurate with each employee's greater experience on the job. At time of hire, there is an expectation that these incremental salary increases will be paid on a regular basis.

SOLUTION: Support and pass S.7655/A.8521

EQUAL BENEFITS

ISSUE: M/C employees earn MUCH LESS sick leave than Unionized employees.

M/C employees earn only 8 sick leave days per year, compared to the 13 days earned by most of their union-represented coworkers. Over a 30-year career, this results in 150 fewer sick days—or 1,200 fewer hours—of sick leave. These credits are essential not only for personal illness or injury, but also for caring for sick children and dependents.

*The impact of this disparity extends into retirement. Unused sick leave provides two important benefits. First, it is credited toward the State pension formula, thereby modestly increasing pension payments. Second, it may be applied to reduce or eliminate retiree health insurance premium costs. As a result, reduced sick leave accruals impose a **triple penalty** on M/C employees: fewer sick leave credits during their working years, reduced pensions, and higher health insurance costs in retirement.*

SOLUTION: Support and pass S.8611/A.9322

DUE PROCESS PROTECTIONS IN THE WORKPLACE

ISSUE: For M/C employees facing discipline, the recommendation of management's hand-picked hearing officer is not final and binding; it is subject to change or complete and total rejection at the discretion of management! Unionized employees instead have an independent arbitrator who issues a final and binding decision that is not subject to modification.

SOLUTION: Support and pass S.1540 (PASSED SENATE)/A.3332

ORGANIZE and MAINTAIN THEIR ASSOCIATIONS

ISSUE: Unlike the State's unions, OMCE (the sole association governed by M/C employees for M/C employees) does not enjoy formal access to its members necessary to educate and inform them about their rights and benefits.

OMCE is a voluntary organization that serves M/C employees much like unions serve rank and file State employees. OMCE was incorporated 50 years ago and as such pre-dates other State employee unions but does not have the same access to employees and the same stature to represent their interests. OMCE cannot and does not seek the ability to collectively bargain for M/C employees; OMCE does, however, need the formal tools to contact, inform, and educate M/C employees who need its representation and services.

SOLUTION: Support and pass S./A.(Pending bill number and Sponsor)

COMPENSATION IN BALANCE WITH SUBORDINATE STAFF

ISSUE: The distinctions between the compensation levels of certain M/C managers and their subordinate staff have been eliminated or reversed due to Union contract gains, skewed salary schedules, and generous pay differentials to retain and recruit staff.

*As an example, Treatment Team Leaders (Mental Health), or TTLs (MH), play a central role in the oversight of clinical, residential, and rehabilitative mental health services provided by the State's Office of Mental Health (OMH). As M/C employees, they supervise professional staff including nurses, licensed psychologists, social workers, and other clinicians—many of whom have been receiving recruitment and retention pay differentials as high as **\$35,000 annually for the last three years!** Other M/C-designated titles, including Chief of Forensic Unit 1, are similarly disadvantaged.*

SOLUTION: Mandate that the Department of Civil Service and the Division of the Budget review and approve applications for Occupational Pay Differentials available under Civil Service Law to restore the integrity of the State's compensation plan thereby ensuring that M/C managers and supervisors do not earn the same or less than their Unionized direct reports.

SECURE RETIREMENT

ISSUE: Tier 6 is fundamentally unfair and flawed and serves as a disincentive to the recruitment and retention of State employees in a competitive job market.

SOLUTION: The State Legislature should build on earlier modifications of Tier 6. Specifically, the State Legislature needs to address issues such as retirement age for full pension benefits and pension contribution formulas. Tier 6 saves the State and localities money but the unintended consequences that put employee morale and employee retention at risk. If the State of New York is to be an employer of choice it has to offer salary and benefits that distinguish it from other employers.

ISSUE: Current and past M/C employees who did not receive general salary increases in 2009 and 2010 have never received any back pay to address this injustice. In contrast, Union-represented employees DID receive their raises for BOTH years! M/C employees who retired shortly around that time never had an opportunity to earn additional salary to improve their final pension calculations and have suffered the most financially as a result.

The cost of living (as measured by the Consumer Price Index or CPI) has increased 42.7% since 2011. M/C retirees have been disproportionately impacted due to past salary withholding. The M/C Retiree Pay Parity Bill impacts no more than 4,000 retired M/C employees that completed State service between April 2009 and March 2015. The bill does not increase retirement benefits but provides eligible M/C retirees with a modest one-time payment based upon the number of months each individual retiree worked during the targeted 72-month window. Total fiscal impact of this one-time measure is estimated at \$9 million, but **the accrued savings to the State from this salary withholding exceeds several hundred million dollars!**

SOLUTION: Support and pass S.1579

For far too long, Managerial and Confidential employees have been asked to do more with less, while serving as the backbone of State operations. They supervise staff, ensure compliance, maintain continuity of government services, and accept responsibilities that union-represented employees do not—yet they are routinely denied parity in pay, benefits, and workplace protections.

The inequities outlined in this testimony are not theoretical. They are measurable, documented, and longstanding. Both attachments show the salary disparities that exist between MC's and union represented employees. They have eroded morale,

discouraged qualified employees from seeking leadership roles, and undermined the State's ability to recruit and retain experienced professionals. Most importantly, these disparities persist not because solutions are unavailable, but because they have not yet been acted upon.

The Legislature has both the authority and the obligation to correct these injustices. The bills before you are reasonable, targeted, and fiscally responsible. Collectively, they move New York closer to a compensation and benefits system that rewards responsibility, experience, and service—rather than penalizing employees for accepting managerial roles.

OMCE urges this Committee and the full Legislature to act decisively and without further delay. Parity is not a privilege. It is a matter of fairness, integrity, and good governance. The State of New York must no longer rely on the dedication of M/C employees while denying them equal treatment. The time for correction is long overdue, and the responsibility to act rests squarely with this Legislature.

Attachment #1: Salary Schedule Comparison

Attachment #2: Salary Data