



# New York State Public Employee Conference

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# TESTIMONY

## New York State Senate Standing Committee

on

## Civil Service and Pensions

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**Senator Robert Jackson, Chair**

**Senator Alexis Weik, Ranking Minority Member**

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**October 11, 2023, at Albany**

**Appearances for the NYS Public Employee Conference:**

**Peter D. Meringolo, Chairman**

**Peter Paterson, Legislative Committee Chair & Tier Equity Committee Chair**

*Representing More Than One Million Active and Retired Public Employees  
Visit [nyspec.org](http://nyspec.org) to View The Broad Spectrum of Our Public Sector Member Units!*

Good Day, Chairman Jackson, Ranking Minority Chairwoman Weik, and members of the NYS Senate Standing Committee on Civil Service & Pensions.

For those who don't know me, my name is Peter Meringolo. I am the Chairman of the New York State Public Employee Conference, and I have been in that elected position for more than two decades. I served as President of the New York City Corrections Captains Association for 17 years. I am joined today by Pete Paterson, NYSPEC's Legislative Committee Chair as well as Chair of our Tier Equity Committee. Pete recently retired from the Nassau County Police Department, where he served as First Vice President of the Nassau PBA for 13 years.

For those who may be unaware, NYSPEC is comprised of some 90 member unions and groups of public sector employees. I encourage you to visit our website – [nyspec.org](http://nyspec.org) – to view the broad spectrum of our Member Units listed under the NYSPEC ROSTERS dropdown on the Main Menu Bar. Also on the Main Menu Bar, you may view our 2023 Legislative Agenda, and note that our number one legislative priority is Tier Equity.

NYSPEC's 2024 Legislative Agenda will be finalized at our Annual Meeting and Convention in early December, and, barring any unforeseen circumstances, such as (God forbid!) another 9/11 or another pandemic, Tier Equity will remain the number one priority for public employees.

Senators, we welcome this opportunity to address the issues before you today, most particularly the pensions and their newer tiers as they relate to recruitment and retention of public employees.

This treatise will not be exhaustive in nature, but will provide anecdotal evidence, albeit very limited for purposes of brevity, with some statistics where available. It will be illustrative of the dire need for a roll-back of the requirements of the newer tiers across all agencies. Unless these roll-backs are taken seriously and undertaken in a timely fashion, the situation will only continue to worsen.

We have identified several issues that impact whether an individual seeks public employment, and if so then remains in that capacity, but clearly the primary focus of new and younger (prospective or already-on-payroll) employees is the current state of the pension tiers in New York. The higher contribution rates, the draconian social security offsets in the New York City plans, the exclusion of (oftentimes mandatory) overtime in pension calculations, lead a litany of pension erosions. If not corrected soon, these issues will continue to be a detriment to public employers in obtaining and retaining qualified talent.

Last week, on October 3, the United States Bureau of Labor Statistics issued a press release<sup>1</sup> reporting that the national job market continues to be hot, with over nine million job openings. This projection is not a new phenomenon, but rather a changed paradigm since 2018 in which a transitory work culture has outweighed the benefits of long-term stability with a single employer. In New York, the job market is just as hot, which puts public employers in the middle of a competitive game of "who is the best suitor" for available employee talent.

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<sup>1</sup> Source: <https://www.bls.gov/news.release/jolts.nr0.htm>

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## The Pension Plans

Of the eight pension plans in our great state, we will not be referring to the New York City Teachers' plan or the New York City Educational plan, as none of our members belong to either of those. The six plans our members do belong to are the New York City Police Pension (NYCPPF), the New York City Fire Pension (NYCFPF), the New York City Employees' Retirement System (NYCERS), the New York State & Local Police & Fire Pension (NYSP&F), the New York State & Local Employees' Retirement System (NYSERS), and the New York State Teachers Retirement System (NYSTRS).

Final data <sup>2</sup> for calendar year 2022 show the funding ratio percentage levels for these plans as follows:

- NYCPPF – 80%
- NYCFPF – 64.2%
- NYCERS – 78.1%
- NYSP&F – 96%
- NYSERS – 100.5%
- NYSTRS – 99.3%

All six plans are paying out 100% of their obligations to current retirees, have no unfunded liabilities, and, perhaps with the exception of NYCFPF, their funded ratios are higher than surrounding states in almost all categories. NYCFPF has the lowest funded ratio in our state, in all likelihood due to the high number of disabilities still resulting from 9/11, and from the very strenuous physical toll of the job specification.

Rolling back the employee contributions (along with the inclusion of additional overtime in pension calculation and the exclusion of social security offsets) clearly would not significantly impact the continued strength and viability of these plans.

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## Recruitment and Retention

It is well-established that certain job specifications are experiencing severe staffing shortages. Corrections, police, and nursing are the most egregious examples, but staffing shortages are endemic across the board.

From 2013 to 2022 the New York State workforce declined by 13.1%, or more than 35,000 employees. That is 35,000 individuals who are *not contributing* to the state pension plans! <sup>3</sup> The New York City workforce has reportedly experienced significant staffing deficiencies as well, most certainly within critical titles, that have limited the total amount of contributions to the NYC plans.

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<sup>2</sup> Source: <https://publicplansdata.org/quick-facts/by-state/state/?state=NY>

<sup>3</sup> Source: <https://www.osc.state.ny.us/files/reports/pdf/cy2022-overtime-report.pdf>

Police – The Police Conference of New York is submitting oral and written testimony to this committee today. Suffice to say, numerous examples of recruitment and retention issues with respect to police are cited in that document, so there is no need to repeat them herein.

Nurses – Nursing shortages are common knowledge. In 2021, it was necessary for New York to enact laws to provide minimum nurse staffing in general hospitals and nursing homes; notwithstanding that, there are still shortages despite these laws. Just this last week there was a huge strike by health care workers against Kaiser-Permanente, a massive health care operation; the two major issues workers walked out for were pay *and staffing*.

Corrections – here are some examples:

Suffolk County – “There has been an 82% decline in the number of candidates that have taken the Suffolk County Correction Officer 1 civil service test since 2011, the first test since the implementation of tier changes in New York State. We had 5272 test takers in 2011, and that number decreased to 938 test takers for the most recent test in 2023. 2011 was also the last test that was utilized for the entire 4 year testing cycle, with each subsequent list (2015, 2017, 2019, 2021 and 2023) being exhausted of all qualified candidates early. There is a new test schedule for January 2024, continuing the trend of exhausting the eligible candidate list prior to the 4 year mark. In June of 2022, while covered under a current collective bargaining agreement, we were able to sign a Memorandum of Agreement with Suffolk County in order to help address our recruitment and retention problem. This MOA stated ‘Employees hired as a Correction Officer beginning in January 2023 or later shall be hired at step 3 until a subsequent collective bargaining agreement is reached’. The MOA also stated, ‘Whereas, the parties agree that the Office is struggling to recruit/retain correction officers and need to increase the starting salary; now’. Our current collective bargaining agreement is current through December 31, 2024.”<sup>4</sup>

New York City – “The budgeted headcount for Correction Captains now stands at approximately 704 ... the current headcount of approximately 570 Captains currently in rank is nearly 20% below what the budget calls for. This shortfall in our rank does not take into consideration of the number of Captains that may be unavailable due to on sick leave, vacation, military duty, FMLA leave, and other situations where a Captain may not be available for work (i.e., suspension, modified duty, etc.). Realistically, it is conceivable that there is closer to a shortfall of 30-35% availability of Captains available to work in the NYC jails. Add to this dilemma the critical shortfall of Correction Officers. The Department has a difficult time recruiting sufficient numbers of the public to take the civil service exam for the job. They currently have undertaken an expanded publicity drive to increase the interest in recruiting interested people to take the test. I'm not sure of the numbers, but the rank of Correction Officer has dropped precipitously since 2018 and with their headcount down, there is less of a pool to promote from. We had a class of 25 promotees in April 2023, and were told that the Department is working to vet another 25 for us. The vetting has taken an extremely long time, due to strict guidelines contained in the Nunez MOA (this is a Federal suit) that restricts promotions of personnel who have been found guilty of charges related to uses of force in the jails. These guidelines overrule civil service law in the sense that once a person's charges are adjudicated and any penalty imposed has been served and

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<sup>4</sup> Source: Will Faller, 1<sup>st</sup> VP and Legislative Director, Suffolk County Correction Officers Ass'n

completed, the mandates of Nunez bans that person from being promoted until they meet the strict Nunez provisions. If officers can't be promoted to Captain, then Captains can't be promoted to Assistant Deputy Wardens; the pool of candidates for promotion to Deputy Warden, Warden, Assistant Chief, all the way to Chief of Department has literally evaporated into thin air. Hence, the Commissioner has had no choice but to bring in people from the outside to fill those roles, effectively eliminating the opportunity of uniformed staff to elevate themselves into management positions.”<sup>5</sup>

Courts – Here is a startling statistic regarding Court Officers, which is typically a sought-after position in public employment because of the status and work schedule. The most recent state-wide Court Officer exam attracted 88,109 applicants; a stunning number of these, 51,116 – *despite having paid an application fee!* – failed to appear for the exam.<sup>6</sup>

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The New York State Public Employee Conference hopes this treatise is helpful to your committee in its deliberations, and helps pave the path toward the rolling back of some of the most draconian parts of the newer pension tiers.

Respectfully submitted.

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<sup>5</sup> Source: Joseph Ferramosca, Legislative Chairman, (NYC) Correction Captains' Association

<sup>6</sup> Source: Joey Gagnon, 1<sup>st</sup> Vice President, Suffolk County Court Employees Association