



PEF/encon representatives on the Joint Labor/Management CPP Committee (Committee)-- Lawrence D'Arco, Tara Blum, Bernadette Anderson, Wayne Bayer, and Keith Browne--attended the meeting that took place on November 28, 2006. We went to the meeting prepared to participate in orientation planning necessary to roll out the expansion of this program. Instead, we were given revised draft guidelines that only a select group of management staff developed. The guidelines developed by the joint work group (comprised of Management, PEF, and CSEA representatives) appear to have been disregarded. We are very disappointed with the lack of collaboration in the development of the revised draft guidelines. We were told by Jack McKeon that the guidelines document was revised to address concerns of the Commissioner, Division Directors, and Regional Directors. Why wasn't the entire Committee told what the concerns were and asked to revisit the draft guidelines dated June 2, 2006 that the CPP Guidelines/Policy Subcommittee had developed?

Nevertheless, we have reviewed the revised draft guidelines dated November 28, 2006 and have several significant comments and questions that need to be addressed. For the record, PEF/encon's comments on the "Draft DEC Guidelines for the Administration of the Compressed Pay Period Program" are as follows:

### **General Comments**

We note that the subcommittee (6/2/06) version was titled "Guidelines for Participation in the Compressed Pay Period Program" whereas the revised (11/28/06) version is titled "Guidelines for the Administration of the Compressed Pay Period Program." The emphasis has changed with the new document appearing to assist managers in implementing the program whereas the old version was geared more toward potential participants in the program.

Are "supervisor" and "manager" interchangeable terms? There are many instances where the term "manager" is used rather than "supervisor" and the first line under "Criteria for Participation" starts with "Subject to management approval..." Does that refer to someone other than the immediate supervisor? If so, who?

### **Introduction**

On page 1 of the June '06 subcommittee version, the last sentence stated that "In offices or work units where there may be limited staff to meet operational needs on a given pass day, the Department will make an effort to obtain staff coverage from other units or offices at the location in order to optimize opportunities for employees to participate in the CPP program." This sentence has been deleted in the revised version. Much discussion on this was held in the subcommittee, mostly in regards to clerical staff not being able to participate if they were the only support staff in their work unit and management's desire to avoid that unfortunate situation. In deleting this sentence, it may be more difficult for clerical staff to participate in CPP.

## **Criteria for Participation**

It should be noted that while several new items were added to the criteria list, a few were deleted from the subcommittee's version, specifically #'s 5, 7, and 8. Please explain why these items were deleted.

Page 2, Item #2: This new item prevents any employee who has "significant managerial or supervisory responsibilities" from participating in the program. This is an unreasonable requirement that should be removed. In addition, the wording is too subjective as it allows for inconsistent and substantial variation in interpretation from program to program and region to region. To our knowledge, there has been no problem with supervisors participating in the pilot program. If a serious problem existed, it should have been mentioned to the Policy/Guidelines subcommittee during the development process so that it could have been addressed in the guidelines they were charged with writing. While the question regarding supervisor participation was not directly addressed in the CPP Survey, 80% of respondents thought that participation in CPP should not be limited by position, title or salary grade. The employees that responded to the survey were told that their input would be used to understand CPP issues and to help develop policy on implementation of the program. It appears that the survey responses were ignored. We can understand management wanting to ensure that any supervisory or managerial responsibilities be addressed on the employee's pass day, but we believe there are measures in place to do that already, such as establishing a chain of command. If there is a need to address the issue in the guidelines, it could be done with a simple requirement that supervisory employees have a plan approved by their supervisor that addresses their supervisory duties on their pass day. This is no different than addressing these responsibilities when supervisory staff are out of the office attending conferences or management meetings, performing field work, or on leave. As far as supervisors' availability to their staff, working a compressed pay period work schedule means that the supervisor will be available to the staff longer hours on nine out of ten workdays.

Item #3: "The employee's time and attendance record is and remains satisfactory." We believe that this sentence (Item #2 in the June version) is adequate. The next two sentences, definition of "satisfactory" and the example of "tardiness," must be removed. If an employee has a problem with unsatisfactory time and attendance, then this problem should have been documented, in performance evaluation(s) or notice(s) of discipline in the employee's personnel file. These guidelines should not be used against employees to address items of a disciplinary nature.

Page 3, Item #4: "The employees work performance is such that the employee has demonstrated the ability to work independently and with minimum supervision." We believe that this sentence is adequate. Delete the next sentence, "Such a decision should be made by evaluating factors such as..." as it is unnecessary and arbitrary. The CPP guidelines should not be used to take the place of a performance evaluation, which is supposed to be the mechanism for assessing work performance.

Item #5 is already addressed in Item #4 and should be deleted. In fact, they almost say the same

thing. One states “with minimum supervision” and the other “without direct supervision.”

Item #6 is a new item that excludes employees on probation or in a traineeship. We believe that this is too restrictive, especially for existing employees that have demonstrated many years of satisfactory performance with the agency. For example, an employee that was participating in CPP, and is then promoted to a position requiring a two-year traineeship, would no longer be able to participate in CPP. Also, this item may be detrimental to the agency for recruiting purposes, as many private employers are allowing their employees more flexible work schedules similar to CPP.

Item #7: "The employee is not a participant in a concurrent telecommuting, VRWS program, or any other Alternate Work Schedule Program." There are discrepancies between the Work Schedule Policy, OAD-19 document and these guidelines. According to OAD-19, VRWS is not listed as one of the Alternate Work Schedules. While those on a VRWS schedule were excluded from the pilot CPP program, there was no intent to do so should the program become permanent.

### **Managerial Guidance and Program Requirements**

It should be noted that this entire section is new and was not included in the subcommittee version of the guidelines.

Middle of page 4: "Once a schedule has been established and approved by the manager, employees may not change the pass day unless directed by the supervisor to do so." Since the "open period" is only from Nov. 15 - Dec. 15 each year, it spans two different school years for those employees who are either attending classes themselves or whose children go to school. Whatever the reason, there are extenuating circumstances which could necessitate a change in pass day. We do not agree that the pass day can only be changed if the supervisor wants to change it, whereas no consideration is given to an employee's need to change the pass day. So, if a participant can no longer take the original pass day, is the only option to terminate participation in CPP? An employee should be able to change their pass day if there is mutual agreement between him/her and his/her supervisor. The Opting Out Procedures on page 5 mention modifying the agreement upon mutual agreement between employee and supervisor. Wouldn't that include a change in pass day? Also, is there any limit to the number of times that a supervisor can change the employee's pass day?

The June '06 subcommittee version stated that “The work schedule may be modified or adjusted according to the Comptroller’s Rules and Regulations and as pursuant to the Collective Bargaining Agreements between NYS and the appropriate bargaining unit.” Why was this deleted?

End of section regarding email submittal of changes in pass days to LATs administration: Can't the change be made by the supervisor? Please explain the reason for the email notification.

### **Application Process**

“The application will be approved, modified or disapproved by the supervisor, Bureau Head and Division/Regional Director.” According to OAD-19, only the supervisor and Division/Regional Director must approve applications.

Page 5 - annual review: This addition seems redundant, unnecessary, adds bureaucracy to the program, and is a waste of precious resources. In the section titled “Opting Out Procedures” management may terminate the program with two weeks notice for a number of reasons. With that provision included, what is the reason for annual review? Again, the survey responses appear to have been ignored. 87% of CPP survey respondents thought the program should continue without review as long as there were no problems, and ~35% of survey takers stated they were supervisors. Also, the open period of November 15<sup>th</sup> to December 15<sup>th</sup> and the calendar year basis for CPP does not coincide with the fiscal year calendar that is used for the VRWS program. For example, if an employee wished to stop doing VRWS in favor of CPP, would the employee then have to wait from April 1 until January 1 of the following year?

### **Opting Out Procedures**

The second sentence mentions the modification or termination of the agreement at any time subject to mutual agreement. As mentioned above, wouldn't this include a change in pass day? In the same section, the *minimum* of two weeks written notification and citing of reasons requirement for a supervisor wishing to terminate an employee's participation was eliminated from the subcommittee's document. Yet, an employee must provide a *minimum* of two weeks written notice to the manager in order to terminate participation.

### **Time Records**

Page 6, Item #4: “Overtime ineligible employees participating in the Compressed Pay Period Program are not eligible to work an Alternative Work Schedule (75 hour pay period) other than the 40/35 or 35/40 approved for the Compressed Pay Period Program...” This seems to say, no matter how many hours you work in a given day you can't work fewer hours on any other day to make up for the long day. Many of us are required from time to time to work long days but have been allowed to alter our schedule on other days to make up for the long day. Long days are often required for sampling events, public meetings, etc., particularly when the work requires significant travel. This provision seems intended to exchange the CPP program for many hours of unpaid overtime. This provision is unacceptable as it gives up significant rights that we currently have in our Contract.