

**Memorandum of Agreement between the State of New Jersey and
the Communications Workers of America, AFL-CIO**

Whereas, the current COVID pandemic and the impact of the pandemic on the State's economy has caused an unforeseen and unprecedented reduction in actual State revenues for FY 2020 and in projected revenues for FY 2021; and

Whereas, the State of New Jersey extended fiscal year 2020 from and end date of June 30, 2020 to September 30, 2020;

Whereas, the Communications Workers of America, AFL-CIO (CWA or the Union) and the State of New Jersey (the State) seek to avert the layoffs of thousands of State workers while preserving the integrity of the parties' collective negotiations agreements and providing necessary personnel-related savings for the FY 2020 and FY 2021 State budgets; and

Whereas, the parties recognize that during this period of a health and economic crisis, with the rate of unemployment in New Jersey and the Country approaching 20% and with the federal government seeking to stimulate and support the economy through various forms of stimulus and direct support to State governments, private business and individuals, layoffs not only devastate the lives of individual workers and their families, they counteract these economic stimulus policies and programs and are bad for New Jersey's economy; and

Whereas, the parties recognize that an agreement to reduce State salary costs during this economic crisis, while preserving the integrity of the collective negotiations agreements, is preferable to widespread layoffs and the disruption to public services caused by such layoffs; and

Whereas, the State and CWA recognize that a negotiated agreement encompassing the issues that are the subject of this Memorandum of Agreement (MOA) will not interfere with the State's determinations with respect to governmental policy; and

Whereas, a negotiated agreement between the parties will facilitate the accomplishment of vital government policies and objectives, including the avoidance of layoffs, the delivery of essential public services, and the achievement of substantial budgetary savings;

Therefore, the parties enter into the following agreement:

A. The Deferral of Across-the-Board Wage Increase

1. The 2% across-the-board increase to annual base salaries in Article 6A that 12-month employees are due to receive the first full pay period after **July 1, 2020** and 10-month employees are due to receive the first full pay period after **September 1, 2020** will be deferred and paid the first full pay period after **December 1, 2021**.
2. The July 1, 2021 increase is unchanged.

3. The 2% across-the-board increase to annual base salaries in Article 6A that full time employees are due to receive the first full pay period after **April 1, 2022** and 10-month employees are due to receive the first full pay period after **June 1, 2022** is deferred until the first full pay period after **July 1, 2022**.
4. Notwithstanding the parties' agreement to defer the payment of across-the-board increases, as permitted by law, CWA unit members will not suffer any diminution in their pension benefits as a result of the deferral of such payments.
5. On January 1, 2021, employees who participated in section B(1)(a) of this MOA will receive Personal Leave Bank days as follows:
 - a. Individuals who participated in section B(1)(a) below, and whose total base salary deferral pursuant section A(1) of this MOA resulted in a deferral in excess of \$2,100, shall receive two (2) Personal Leave Bank (PLB) days.
 - b. Individuals who participated in section B(1)(a) below, whose total base salary deferral pursuant to pursuant section A(1) of this MOA resulted in a deferral in excess of \$2,100 and who, between June 29 through July 31, 2021, suffered a loss in compensation equal to the loss of more than 3 days and up to 4 days pay based on that individual's daily rate of pay, shall receive 2 PLB days and shall be exempt from the unpaid day described in Paragraph B(1)(c) below. Departments shall notify employees that they qualify for an exemption from B(1)(c). Employees shall notify the department HR office if they will be using the exemption by no later than September 1, 2020.
 - c. Individuals who participated in section B(1)(a) below, whose total base salary deferral pursuant to pursuant section A(1) of this MOA resulted in a deferral in excess of \$2,100 and who, between June 29 through July 31, 2021, suffered a loss in compensation equal to the loss of more than 4 days and up to 5 days pay based on that individual's daily rate of pay, shall receive 2 PLB days and shall be exempt from the unpaid days described in Paragraphs B(1)(b) and B(1)(c) below. Departments shall notify employees that they qualify for exemptions from B(1)(b) and B(1)(c). Employees shall notify the department HR office if they will be using the exemptions by no later than September 1, 2020.
6. PLB days will be maintained in leave banks separate and apart from banks of other paid leave and there will be no limitations on the carry-over of days in the PLBs. Specifically, the carry over restrictions that are applicable to paid vacation and administrative leave days will not be applicable to the PLBs.
7. Beginning January 1, 2021, and for the duration of their employment with the State, employees may use days in the PLB subject to operational needs. Approval for the use and scheduling of PLB days shall not be unreasonably denied.

8. Unused PLB days at the time of separation from employment have no cash value.

B. Furlough Program

1. To avoid layoffs, CWA and the State agree to establish a Furlough Program for CWA units consistent with the Civil Service States and Regulations, with the exception of those unit members excluded by paragraph (B)(2), below.

The Program shall be implemented as follows:

- a. It is agreed that at least an aggregate of 10 furlough days will be scheduled between June 29 and July 31, 2020 for CWA unit members, excluding those listed in Paragraph B(2) below, or those required to work by the State. In other words, if there are 25,000 unit members eligible for participation in the furlough program, in the aggregate CWA unit members will be furloughed for at least 250,000 days.
 - b. It is agreed that Friday, November 27, 2020 (the day after Thanksgiving) shall be an unpaid day off and furlough day for all CWA members, excluding those who are required to work on that day by the State. All employees who are required to work on November 27, 2020 shall utilize a self-directed unpaid leave day in FY 2021.
 - c. It is agreed that February 15, 2021 (President's Day) shall be an unpaid holiday and furlough day, excluding those who are required to work on that day by the State. All employees who are required to work on President's Day in 2021 shall utilize a self-directed unpaid leave day in FY 2021.
2. Essential frontline CWA unit members, who worked full-time through the declared COVID State of Emergency, reported to work and who received the COVID-19 emergency rate as approved by the Civil Service Commission, will not be mandated to use the furlough days set forth in paragraph B(1)(a), above. In addition, frontline CWA unit members employed by DMAVA, who were required to report to work during the COVID-19 emergency and who did report to work during the COVID-19 emergency will not be mandated to use the furlough days set forth in Paragraph B(1)(a) above. DOL employees involved in processing the applications for unemployment benefits and unemployment program may be exempted from use of the furlough days set forth in Paragraph B(1)(a) above, as determined by the DOL.
 3. The Furlough Program shall run from June 29, 2020 through July 31, 2021 unless extended by mutual agreement.

4. Best efforts will be made by the departments and agencies of the State Executive Branch to furlough other CWA unit members for the maximum number of possible days for an aggregate of 250,000 days for the ten (10) days as set forth in B(1)(a) between June 29 through July 31, 2020. However, departments retain discretion to ensure that operational needs are met in directing employees' furlough dates. The decision to direct a specific employee's furlough day(s) is subject to the sole discretion of the department and is not subject to the parties' enforcement procedures in Paragraph J, below.
5. The scheduling of the Furlough Program days shall be accomplished in accordance with Schedules A and B, attached hereto. The State shall use best efforts to structure the Furlough Program such that participating CWA unit members suffer minimal changes in compensation. Prior to the commencement of an individual's furlough under this Program, the departments shall provide the CWA local(s) with the lists of participating employees, their salaries and the days they will be furloughed.
6. CWA, DOL and the State shall work together to produce instructions for filing unemployment application, which shall be available to employees participating in the Furlough Program.
7. The State shall not increase the number of temporary employees provided by vendors such as 22nd Century after the execution of this MOA in order to perform negotiations unit work while CWA unit employees are furloughed pursuant to this Agreement.
8. Employees participating in the Furlough Program shall continue to receive the same health benefits, at the same contribution levels, as if they were not participating in the Program.
9. Employees shall continue to accrue paid leave benefits and seniority as if they were not participating in the Furlough Program.
11. Pension and retirement contribution by employees shall continue to be paid as if employees were not participating in the Furlough Program. Participation in the Program shall not reduce an employee's pension service credit. Employee pension contributions shall be pre-tax. Pursuant to N.J.A.C. 17:2-5.5, the buyback of pension time, if necessary, shall be at the contribution rate the employee would have paid if not furloughed. Furloughs under the Furlough Program shall be treated as leaves for personal reasons under N.J.A.C. 17:2-5.5.
12. Participation in the Furlough Program shall not change employee anniversary dates.

13. Alternative workweek programs shall be suspended during the period that an employee participates in the Furlough Program. (All work days are 7, 7.5 or 8 hour days for purposes of the Program).
14. If management is unable to schedule the 10 furlough days for operational reasons between June 29, 2020 and July 31, 2020 the employee shall not be required to take the furlough days after July 31, 2020.
15. The parties agree to jointly seek the relaxation of any rules or regulations as may be necessary to implement the Furlough Program.
16. The provisions of Paragraph B do not apply to specific employees at any of the nine State Colleges/Universities who are already subject to a locally negotiated furlough agreement with CWA. Absent a locally negotiated agreement between CWA and a State College or University, all provisions of this MOA shall apply to CWA negotiations unit employees employed at State Colleges and Universities.
17. In the event enhanced unemployment benefits under the CARES Act are extended beyond July 31, 2020, or if similar enhanced unemployment benefits become available during fiscal year 2021, the parties may negotiate an expansion of the Furlough Program set forth in section B of this MOA, to cover a portion of the State's fiscal year beginning on October 1, 2020.

C. No Layoff Agreement

1. In consideration for the substantial personnel savings achieved through the raise deferral and furlough programs set forth in sections A and B of this MOA, the State agrees that there shall be no layoffs of bargaining unit employees through December 31, 2021, unless a layoff plan was approved by any of the nine State colleges/Universities prior to the execution of this Agreement.
2. The parties agree that the savings achieved through this MOA coupled with savings to be achieved through agreements with other represented bargaining units and with savings from non-aligned employees and managers, should be sufficient to avoid the economic need for layoffs through December 31, 2021.
3. The parties recognize the State's legal authority to implement layoffs, but recognize the personal and social costs of layoffs, including the disruption of services to the most vulnerable citizens of the State.
4. If any member of a CWA negotiations unit is laid off in violation of paragraphs C(1) or (2) of this MOA, the employee shall be made whole for all compensation and benefits lost as a result of the layoff.
5. The no layoff agreement in this section of the MOA does not apply to separations from State service that are not "layoffs" under the parties' collective negotiations

agreements. Examples of such separations include, the termination of an employee at the end of a working test period, a disciplinary termination, the non-renewal of a non-tenured employee, the termination of a provisional employee, or the termination of an unclassified employee with less than four years of consecutive state service. Employees separated from State service on such grounds retain any rights they have to challenge such separations under the parties' collective negotiations agreements and/or under law and regulation. This provision shall not be used to circumvent the no layoff agreement contained in paragraph 1 of this section of the MOA.

D. Leave Time

1. If the employee is unable to utilize vacation leave day(s) due to his or her furlough days in fiscal year 2020 or due to being required to work during the pandemic, the employee may request such vacation day(s) to be carried over consistent with the requirements of N.J.S.A. 11A:6-2 and N.J.A.C 4A:6-1.2, and such request shall not be unreasonably denied.
2. The parties agree to negotiate in good faith concerning possible protocols to address the impact to mental health for unit members working in long term care facilities (nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to N.J.S.A. 26:2H-1 et seq.) during the pandemic. Such negotiations will commence within thirty (30) calendar days from the ratification of this MOA. The parties shall use best efforts to finalize an agreement prior to December 31, 2020.

E. Bargaining Unit Work

1. The parties will meet to review whether part-time and seasonal DEP employees assigned to State Parks, State Forests, State Fish and Wildlife and State Wildlife Management Areas, who are performing CWA negotiations unit work, may be placed be in CWA negotiations units.
2. The parties agree that contracts with vendors to provide temporary employment services to provide CWA unit work shall not be used to replace CWA unit members while CWA unit employees are furloughed pursuant to this Agreement.
3. During the no-layoff period, hours for vendors to provide clerical or administrative services shall not increase.

F. Restrictions on the Use of Temporary Employment Services (TES) Positions and the Conversion of TES Positions to Regular Full-time Positions

1. To achieve continuing reductions in personnel costs during the term of the parties' collective negotiations agreements, the State agrees that it shall not increase the

number of TES positions in use as of the date this MOA is executed, and based upon the audit described in paragraph 2 below, the State shall reduce the use of TES positions. This shall not limit the State's ability to hire temporary employees for seasonal work, such as lifeguards, or for special projects of defined lengths of time. This section of the MOA is intended to augment Article 1, Section E of the parties' agreements.

2. Within 180 days from the ratification of this MOA, the State, in consultation with affected negotiations unit representatives, will conduct an audit of TES positions in the Departments of Human Services, Law and Public Safety, Military and Veterans Affairs, Education and Treasury to determine whether such positions are being used in lieu of positions which should be filled by permanent employees. The results of the audit will be provided to affected negotiations unit representatives within fifteen (15) days of its completion.

G. Consultant Contracts

The State agrees that during fiscal years 2020 and 2021, it will exercise whatever rights exist under law to discount, reduce or obtain cost savings from vendors or contractors performing CWA negotiations unit work, including not increasing the rates of compensation received by consultants or employees of vendors or contractors.

H. Telecommuting

Following the effective date of this MOA, the State shall provide CWA with a copy of the telecommuting rules, relaxation of rules or other action by the Civil Service Commission for review by and consultation with CWA at least five (5) work days prior to the presentation of the rule, rule relaxation or other action to the Civil Service Commission or to the Chair.

I. Union Rights

1. The parties agree that CWA dues authorization cards signed by electronic signatures satisfy the requirements of Article 2(B) provided an email or other form of electronic verification from the employee is also provided.
2. New employee orientations that are conducted over Zoom or some other video platform shall include the CWA representatives and shall conform to the requirements of Article 25(I).

J. Enforcement of the MOA

1. This MOA is incorporated into and modifies the parties' 2019-2023 collective negotiations agreements. The terms of this MOA and any dispute arising under this MOA, involving the application or interpretation of the terms of this MOA, are subject to the grievance/arbitration provisions of those agreements.

2. The State agrees that in the event CWA seeks to arbitrate a dispute arising under Sections A through C excluding Paragraph B(6) of this MOA, the State waives any right it may have to claim that the dispute is not legally arbitrable or negotiable under scope of negotiations law. In the event CWA seeks to arbitrate a dispute arising under the remaining provisions of this MOA, the State retains the right to challenge the legal arbitrability of such grievances.
3. Further, the State agrees that any grievance filed under the terms of this MOA shall be filed directly with the Governor's Office of Employee Relations (OER) and that the lower steps of the grievance procedure will be bypassed.
4. The parties agree that if any provisions of this MOA require legislation or regulation to be effective, the parties will jointly seek the enactment of such legislation or the promulgation of such regulations.

K. Existing Collective Negotiations Agreements

All provisions of the parties' 2019-2023 collective negotiations agreements not expressly modified by this MOA remain in full force and effect.

L. MOA Subject to Ratification of Membership

This MOA is subject to ratification by the membership of CWA.

On behalf of the Communications Workers of
America, AFL-CIO

Dennis G. Trainor

On behalf of the State of New Jersey

Kristina Chubenko

