



# THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION TESTIMONY

2023-2027 Draft Strategic Plan

Albany, New York

September 13, 2022

Wayne Spence, President

Good afternoon Chairman Abinanti, Ranking Member Angelino, committee members and guests. My name is Wayne Spence and I am the president of the 50,000 member strong New York State Public Employees Federation (PEF). I want to thank you for the opportunity to speak to you about the recently released 2023-2027 Draft Strategic Plan for the NYS Office for People with Developmental Disabilities and the potential impact this plan could have on my members and the New Yorkers we serve. Our union is made up of professional, scientific and technical experts who provide critical services to the residents and taxpayers of New York State. Serving as the state's frontline essential workers during the COVID-19 pandemic, my members have risked their lives and those of their families to maintain the continuity and quality of services to New York's most vulnerable citizens, including individuals with developmental disabilities. PEF members take a great deal of pride in their work and the care that they provide to clients because they are professionals and they care about the welfare of their fellow New Yorkers.

We thank Governor Hochul and the majorities in the Senate and Assembly for your efforts as part of this year's state budget to attract and retain state staff through specific programming like the Healthcare Worker Bonus program, Nurses Across New York program, changes to the Tier 6 pension plan and additional operating resources to OPWDD. But we need to do even more.

I would be remiss if we did not express our regret at having been excluded from participation as part of the stakeholder groups called together to deliberate the significant issues facing OPWDD. It is regrettable that the agency excluded our members and our union from active participation in the development of this draft strategic plan. This failure demonstrates that the agency does not value input from the trained professionals in its employ. It also demonstrates the limitations of the draft strategic plan as presented since it is impossible to forge cogent, comprehensive approaches to problems when important voices are excluded from the process.

It is for these reasons that we see significant gaps in the draft strategic plan. We remain very concerned that the agency continues to purposefully neglect advancing formal procedures to address (1) the staffing problems and serious service delivery issues it is experiencing in state-operated residential and other programs; (2) the failure to develop appropriate strategies to address the unacceptably long wait list for residential placements across the state; and (3) the failure to pursue regional approaches to addressing treatment options for individuals with developmental disabilities and mental health issues. We also remain concerned that this strategic plan continues to advance the flawed policy approach that private providers can provide appropriate, long-term care for the most profoundly disabled at lower cost and with the same quality of care provided by the state's residential and other programs.

## **I. Continued Privatization of Services for IDD Community is Failing New York**

The staff and service delivery challenges facing the state are not new, but these challenges have certainly been exacerbated by the COVID-19 pandemic. Due to the efforts of the previous administration's self-described "transformation agenda," the state of New York has actively worked to divest itself from providing direct, comprehensive services for the mentally ill, for those suffering from addiction and for those with developmental disabilities for over a decade. And, the results are in -- the continued outsourcing, consolidation and closure of programs and services operated by OMH, OPWDD and OASAS, coupled with the reduction of staff and the physical beds dedicated to help the mentally ill, the developmentally disabled and those who suffer from co-occurring disorders -- are disproportionately harming low-income, uninsured, underinsured, undocumented and severely handicapped New Yorkers who suffer from acute mental illness, developmental disabilities or addiction, as well as those who suffer from co-occurring disorders.

For OPWDD, the "transformation agenda" equates to the privatization of services formerly administered by the agency. The continued decentralization of IDD service delivery systems requires the use of state tax dollars to support the administration, staffing and facility costs for hundreds of private providers across the state. But, because the entire plan is predicated solely on saving the state money, the system is flailing as these same private providers cannot maintain the direct care and other staff needed to deliver services because they pay substandard wages and provide limited or no benefits. This, in turn, has increased pressure on the state and the agency to increase its resource allocation to these private providers just to keep them functioning. So, costs to maintain this private network are rising.

It is also important to note that the successful functioning of the state's "safety net" system is growing increasingly reliant on the delivery of services by private providers that have no duty or obligation to render care and are often unable or unwilling to care for clients with needs that are either beyond their capacity or which could undermine their fiscal and/or operational viability. These private providers are prone to program consolidation and closure based on any number of factors, including staffing availability, utilization, financing, etc. When these programs and facilities close, clients and their families are forced to seek other service options. Those options often involve substantial travel to distant locations and/or substantial support from state-operated facilities and programs.

OPWDD's draft strategic plan outlines specific programs and policies to help address staffing and other issues being experienced in the private provider community and allocates significant resources to assist these private providers. Under the plan, OPWDD will provide direct supplemental salary, fringe benefits and other employment benefits to private sector employers and employees to keep these private entities operational. The

plan does not advance specific strategies to address the critical staffing shortages at many OPWDD-operated residences and programs; the suspension of services or closure of more than 130 state-operated residences for individuals with developmental disabilities over the past 18 months; or any plan to expand residence opportunities for the more than 3,000 severely disabled individuals currently waiting for placements.

As you can see from the attached letter from concerned parent Wendy Welch, the level of frustration from parents and caregivers is growing.<sup>1</sup> The lives of their loved ones are being turned upside down and many of their loved ones are being remanded to caregivers who can't meet their needs. We are all frustrated by the lack of planning and the lack of action, but most of all we are troubled by what seems to be a lack of caring for the people directly under the agency's care. This draft plan exemplifies the failings of this agency on every level. And, while PEF believes there is a role for private providers in solidifying the state's social service safety net, the agency's 5-year strategic plan should reflect the resource and programming needs of both public and private providers so that the state can develop a comprehensive approach to delivering services for the IDD community.

## **II. OPWDD's 5-Year Strategic Plan Fails to Address Continuing Problems at the Agency**

As the state continues to prioritize the privatization of care for the IDD community, state-operated programs and facilities continue to face significant headwinds in delivering care to individuals under the state's care:

### **(1) Continued Staffing Issues Increase Costs and Diminish Services**

We greatly appreciate the Governor's intention to bring the state workforce back to pre-pandemic staffing levels, but that is not enough to address the state's staffing needs. OPWDD needs to develop a strategy to meet its staffing needs so it can maintain critical services and operational continuity over the long term. However, the lack of appropriate staffing, burdensome overtime requirements, the inferior Tier 6 retirement plan and the lack of collaboration and recognition from management, as evidenced by the release of this draft strategic plan, all contribute to making OPWDD an uncompetitive employers in today's economy.

A simple comparison of the 1990 and 2021 NYS Civil Service Workforce Management Reports reveals a disturbing trend in the reduction of OPWDD staff who deliver services to IDD New Yorkers.

---

<sup>1</sup> See addendum.

**NY State Staffing Allocation at OPWDD 1990 vs. 2021**

<b>Agency</b>	<b>Employees 1990</b>	<b>Employees 2021</b>	<b>Change in Employees 1990 - 2021</b>	<b>Percent Change</b>
OPWDD	29,486	18,439	-11,047	-37%

It is also important to note that while the State Department of Civil Service cites a census of 18,439 as of January 1, 2021, the most recent numbers PEF has received from the agency puts the actual fill number of staff at 16,136 which is 2,303 fewer staff in place today versus January of 2021. That represents an additional reduction in full time staff from 2021 of 12%. So, OPWDD is clearly seeing a precipitous drop in staff and still provides no insights, programming or planning on how it plans to address this issue.

PEF members provide treatment for the mentally ill and the developmentally disabled. It is an intensive endeavor that requires a coordinated program of progressive care involving multiple clinicians and professionals all working together to design an individualized treatment program for each client. Reductions in staffing don't only affect access to care, they affect the quality of that care.

Instead of hiring appropriate staff and developing strategies to retain these highly sought-after professionals, the state and OPWDD have relied on overtime to meet staffing needs. In 2021, state employees worked 19.96 million hours of overtime at a cost of more than \$924 million.<sup>2</sup> On average, staff at OPWDD went from working 148 hours of overtime in 2011 to 292 hours of OT in 2021. That's a 97% increase in overtime over the past decade. And the cost to support overtime to meet staffing needs, continues to explode. One only needs to ask how many staff could the agency hire for the \$184 million it paid in 2021 in overtime costs?

**OPWDD - Staffing Reductions and Increased Overtime 2011-21**

	<b>2011</b>	<b>2021</b>	<b>Difference</b>	<b>Percentage</b>
Number of Staff	23,348	18,439	-4,909	-21%
OT Costs	\$95.1 Million	\$184.2 Million	\$89.1 Million	+67%

---

<sup>2</sup> NYS Comptroller Report: NYS Agency Use of Overtime 2021; [https://www.osc.state.ny.us/files/reports/pdf/cy2021-overtime-report.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://www.osc.state.ny.us/files/reports/pdf/cy2021-overtime-report.pdf?utm_medium=email&utm_source=govdelivery)

This overreliance on overtime to meet long-term staffing needs also has broader implications on the culture of work in OPWDD and the ability of the agencies to attract and retain talent, especially highly-trained workers in high-demand fields (i.e., nurses, psychiatrics, etc.). Moreover, as has been shown, the agency continues to shed staff at an alarming rate causing the imposition of additional overtime on existing employees. How many vacancies does OPWDD have right now? How many vacant nursing and other positions that require higher education and professional training? We understand that facilities are being forced to reduce capacity and limit operations based on low staffing. Unfortunately, the agency does not provide information on staffing and this draft strategic plan provides no blueprint to address this situation.

This is an entirely correctable problem. As other healthcare employers offer incentives to attract and retain staff and as this draft strategic plan advances similar strategies to dedicate tax dollars in support of the staffing needs of private providers, the state has been systematically reducing staff and over-relying on mandated overtime to fill the void. Today, even with the hiring freeze lifted, the state has been unable to find enough nurses and other professional staff to maintain its operations and several agencies are being forced to curtail operations due to low staffing, including OPWDD. Where's the plan?

**(2) Facility Closures at OPWDD Displace At-Risk New Yorkers with Developmental Disabilities**

As stated, since January 2, 2020, more than 120 state-operated residential programs for the developmentally disabled have closed or suspended services. This has resulted in the displacement of hundreds of individuals who require services. OPWDD has indicated that the vast majority of these closures are due to “hard-to-fill vacancies” and “high overtime,” while other closures are due to dilapidated facilities or lease expirations. It is hard to imagine the state allowing its own safety net for the developmentally disabled to fail, as the state pumps hundreds of millions of dollars into the private provider network to address their staffing concerns. And again, OPWDD has not advanced any plan to attract and retain critically needed workers at these facilities, let alone advance a plan to address the more than 3,000 individuals with disabilities currently waiting for immediate placements.

**III. PEF's Recommendations to Improve the Draft 5-Year Strategic Plan**

While neither the professional staff nor the union were invited to participate in the development of the 5-year strategic plan, as a safety net provider of services for at-risk New Yorkers, PEF strongly recommends that OPWDD include the following components in its strategic plan prior to adoption:

**(1) Staff Attraction and Retention Plan**

Using the programs established for the private provider community, OPWDD should establish real staff attraction and retention programs, like improvements in the starting salary grades for nurses,

tuition support and professional development and supporting additional improvements to the Tier 6 pension plan so the agency can attract the staff it needs to continue operations at the facilities that have closed or suspended services. PEF also believes OPWDD should engage the Civil Service Department to expedite additional civil service examinations for vacant positions, especially in regions with staffing shortages. This will help alleviate the shortage of workers, increase the quality of care for clients, and reduce the over-reliance on overtime to meet the agency's service needs.

(2) **Repair and Improvement Existing Facilities**

OPWDD should advance a plan to dedicate sufficient resources to make the capital improvements identified by OPWDD as needed to maintain services in certain facilities. These funds will also be used to help transition those who sought out-of-state services but who have now aged out of their program and require specialized intensive treatment services here in New York.

(3) **Acquire New Facilities**

There are more than 3,000 individuals who need immediate residential placements and another 10,000 individuals who will require residential placement at some point in the near term. The state has the resources to address this need and must allocate them to meet it. OPWDD must undertake an aggressive effort to identify and secure new residential facilities to service this group of at-risk New Yorkers.

(4) **Map and Maintain Greater Oversight on Lease Agreements**

One of the rationales offered for certain state-operated residential facility closures or “suspensions of service” relates to the expiration of leased property or other issues around the leasing of space. It is entirely appropriate for the state to lease space to provide residential and other services for the IDD and other communities. Leased property provides the agency lower-cost access to space and a contractually-secured timeframe for utilization. What is not acceptable is the failure to maintain appropriate oversight on those leases or to address lease deadlines or other lease issues without an alternate plan in place. It is not acceptable to close or “suspend services” for New Yorkers with IDD because a lease has expired and no plan was in place in advance of that expiration. PEF strongly recommends that OPWDD provide greater transparency on the number, length and physical location of leases it maintains and much stricter administrative oversight on the terms and duration of those leases so as to avoid the unnecessary displacement of IDD clients and/or the closure or “suspension of services.”

(5) **Building a Culture of Respect and Collaboration**

We are very thankful to have such excellent leadership in state government. Governor Hochul has certainly set a new, more respectful tone with her state agencies and her employees. In many state agencies, this more respectful tone and collaborative approach between management and the professional employees we represent has enhanced the delivery of services and improved the outcomes for New Yorkers. We hope that OPWDD will entertain a similar approach with its employees and their union moving forward.

Thank you for the opportunity to share our concerns with you. We hope that the final strategic plan will reflect these concerns. We look forward to working with the agency, the Executive and the Members of the Legislature to ensure appropriate programs and resources are available to implement the final strategic plan once it is adopted.

Respectfully Submitted,

Wayne Spence  
President, New York State Public Employees Federation

#### ADDENDUM



North Maple IRA -  
Wendy Welch letter.