

February 10, 2021

Via E-mail

Honorable Janet DiFiore
Chief Judge of the State of New York
New York State Unified Court System
25 Beaver Street, Room 852
New York, NY 10004

Dear Chief Judge DiFiore:

We the undersigned Unions represent the thousands of non-judicial employees who work for the New York State Unified Court System, from Buffalo to Riverhead. Our members make up the bulk of Female, LGBTQ, Black, Latinx, Asian-American and others employed by UCS. We read with interest your February 3, 2021 Memorandum entitled "Further Addressing Bias in the Court System".

The Unions share your concern and condemnation of any acts of discrimination, harassment or bullying suffered by anyone. None of our members, nor any judge or member of the public, should feel unsafe in a courthouse or anywhere because of their race, religion, gender or sexual orientation.

Now that UCS is in receipt of a report from an independent third party finding that the system created and controlled by UCS has "failed," UCS' response is to change the disciplinary procedures with respect to matters of discriminatory conduct by a UCS employee, including but not limited to requiring a full disciplinary hearing and having the respective Deputy Chief Administrative Judge consult with a special panel who will advise on the appropriate penalty to be imposed upon a finding by a hearing officer sustaining such a charge.

We believe a new option should be considered because a system that polices itself is inherently biased towards itself and, therefore, cannot be impartial, as all of the decision-makers are appointed by Your Honor or with your approval. The solution we propose is binding disciplinary arbitration by a neutral arbitrator. Such a system ensures that the decision maker has no self interest in the outcome and is not beholden to either party in the dispute.

Unions and employers have engaged in binding arbitration to resolve disciplinary disputes for decades: in the private sector since the 1930's and in the public sector here in New York since the 1960's. It is a well-tested process with a good track record. The State Executive branch has agreed to binding arbitration for hundreds of thousands of its employees. A system of binding arbitration takes the inherent bias of both the employer and employee and sets it aside in favor of the determination of an independent and knowledgeable arbitrator. We note that this is the foundation of our justice system; the judge is an impartial third party in a dispute, with no personal stake, deciding a case solely based on the facts and the law.

We strongly believe that justice for non-judicial court employees may only be achieved through binding disciplinary arbitration. The employees of the UCS deserve no less due process than those who seek justice in our courthouses.

Thank you for your attention to this matter. We look forward to hearing from you.

Sincerely,

Eric Allen, President
Association of Supreme Court Reporters
Within The City of New York

William Hart, President
CSEA Local 335

Frank Ghezzi, Chair
Citywide Association of Law Assistants

Nicole Ventresca-Cohen , President
CSEA Local 694

Peter A. Piciulo, President
Court Officers Benevolent
Association of Nassau County

Gina Strickland, 1st Vice President
CWA Local 1180

Jeanette Mercedes, President
Court Attorneys Association
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Fausto Sabatino, President
DC 37 Local 1070

Vincent Martusciello, President
CSEA Local 010

Glenn L. Damato, President
N.Y.S. Court Clerks Association

Diane Hansen, President
CSEA Local 330

Dennis Quirk, President
N.Y.S. Court Officers Association

Kevin Mahler, President
CSEA Local 332

Sgt. Patrick Cullen, President
N.Y.S. Supreme Court Officers Association

Scott Garland, President
CSEA Local 333

Steven Stone, President
Ninth Judicial District Court Employees

Ian Spencer, President
CSEA Local 334

Gerard Gwinn, President
Suffolk County Court Employees