



# This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

October 4, 2019 Edition



## *In the News – State*



## **In Memoriam: NYPD Officer Brian Mulkeen**

We extend our deepest condolences to the family, friends, and fellow officers of Police Officer Brian Mulkeen who was killed in the line of duty on Sunday. Officer Mulkeen was shot in the early morning hours while subduing an armed suspect.

A member of the Bronx Anti-Crime Unit, Officer Mulkeen investigated potential area gang activity. Over a seven-year career, he had 270 arrests, the majority for removing illegal guns from the streets, and received numerous Excellence in Police Duties awards. Officer Mulkeen is survived by parents, brother and sister, and girlfriend.

Officer Mulkeen served with selflessness and courage, and our gratitude and prayers are with his family.

Our gratitude and prayers are also with his fellow NYPD officers who put their lives on the line every day to protect us.

### **A Police Officer's Prayer**

*Lord, I ask for courage;  
Courage to face and conquer my own fears...  
Courage to take me where others will not go.  
I ask for strength;  
Strength of body to protect others...  
Strength of spirit to lead others.  
I ask dedication;  
Dedication to my job to do it well.  
Dedication to my community to keep it safe.  
Give me, Lord, concern;  
For all those who trust me...  
And compassion for those who need me  
And, please, Lord, through it all; be at my side.*



## Whistleblowers Welcome: Attorney General James Announces New Whistleblower Submission System

State Attorney General Letitia James this week announced her office's new secure whistleblowing system, the N.Y.A.G. Whistleblower Portal, enabling "the simple and secure" transmission of information and two-way anonymous communication with the Office of the Attorney General (OAG).

According to the Attorney General, the system is designed to enable witnesses to unlawful or fraudulent conduct to report what they know without compromising their identity. The Whistleblower Portal utilizes the TOR web browser to protect an individual's identity, location, and information provided. Whistleblowers may download the TOR browser, access the whistleblower site, and then fill out a form with the subject of the communication, a description, and upload any relevant files.

The New York Attorney General's Office is the first governmental agency in the United States to offer whistleblowers the capability to directly transmit documents and send and receive communications electronically without their identity being traceable. The whistleblower website can be found at: <https://ag.ny.gov/whistleblower>.

"Whistleblowers serve a critically important function in our democracy," said Attorney General James. "Whistleblowers call out illegal, corrupt, and fraudulent behavior, often at great risk to themselves. Our advanced Whistleblower Portal will help to attract, engage, and protect whistleblowers, and in turn enhance fairness and the rule of law in our society..."

The Attorney General's office explained that while the OAG still encourages complainants (including whistleblowers) to identify themselves, it recognizes that many people have legitimate concerns about their anonymity because they are reporting conduct by their employers, associates, or members of their community.

The Office notes that the transmission of this information will be anonymous, however, the content of the communication is not guaranteed to remain confidential.

Whistleblowers may also make submissions to the OAG **through online forms**, or by mailing or e-mailing downloadable forms.



## Chapters of the Laws of 2019

**Chapter 333- Sponsored by Senator Gaughran/M of A Lavine** – Allow Correction Officers for the County of Nassau to reside within the County or any adjoining county within the state.

**Chapter 338 – Sponsored by M of A Colton / Senator Persaud** — Requires the commissioner of motor vehicles to provide information on motor vehicle manufacturer safety recalls.

**Chapter 340 – Sponsored by Senator Hoylman / M of A Glick** — Requires the state liquor authority to make available to the public information pertaining to any conditions it imposes on a licensed premises.

**Chapter 341 – Sponsored by Senator Sanders / M of A Weprin** — Relates to members of the police force who use hearing assistance devices and the definition of disabled.

**Chapter 344 – Sponsored by Senator Savino / M of A Jaffee** — Provides that parents and caretakers who are otherwise eligible for a child care assistance shall be able to utilize such assistance when care is necessary to enable them to sleep.

**Chapter 345 – Sponsored by Senator Mayer / M of A Benedetto** — Relates to the probationary period for certain tenured employees in school districts.

**Chapter 352 – Sponsored by Senator Hoylman / M of A Stirpe** — Relates to testamentary disposition to trustee under, or in accordance with, terms of existing inter vivos trust.

**Chapter 356 – Sponsored by Senator Harckham / M of A Byrne** — Exempts certain land from the provisions of law which generally restrict manufacturers, wholesalers and retailers from sharing an interest in a liquor license.

## *In the News – City*

### **Comptroller's Prevailing Wage Law Regulations**

New York City Comptroller Scott Stringer's proposed changes to the City's Prevailing Wage regulations will be the subject of two public hearings scheduled for October and November. The amended regulations revise recordkeeping and notice requirements under the New York State Labor Law and provide for the assessment of civil penalties for violations of employer notice requirements.

The Comptroller's Prevailing Wage Council will meet on Friday, October 18<sup>th</sup>. The meeting will include a discussion of the newly required certified payroll report form and construction poster and regulations pertaining to contractor fines for failure to provide prevailing wage notices to employees on City construction sites. It will also feature a keynote address by State Senator Jessica Ramos, Chair of Committee on Labor. The meeting will be held from 10 a.m. to noon at the David N. Dinkins Municipal Building, 1 Centre Street, in Manhattan.

Comptroller Stringer will also hold a public hearing on the proposed regulations on Friday, November 1<sup>st</sup>, 10 a.m. to noon, in the Municipal Building at One Centre Street, Room 1005, Manhattan.

Specifics of the regulations include:

- Section 1 amends section 2-02 of chapter 2 of title 44 to add a definition for "Construction Poster" that is required by labor law and amends the definition of "Worker Notice Poster."
- Section 2 adds an additional recordkeeping requirement for pay stubs or wage statements required by labor law; add additional notice requirements for public work projects to be posted at job sites and provided to workers with their pay stubs under labor law.
- Section 3 amends chapter 2 of title 44 to add a new section 2-07 creating a procedure for the assessment of civil penalties to covered employers for failure to post required jobsite notices or to provide notices and pay stubs with applicable prevailing wage and supplement rates under labor law.

To review the proposed regulations and for more information on how to submit comments, please see the Notice of Public Hearing and Opportunity to Comment on Proposed Regulations at:

<https://comptroller.nyc.gov/wp-content/uploads/documents/2019-amendments-Comptroller-PW-Law-Regs-Final.pdf>.



## Head Start Teachers Take Another Step Toward Pay Parity

The de Blasio Administration, City Council, District Council 37, Local 95, and Head Start this week announced a tentative agreement that will benefit approximately 2,650 Head Start program staff who work at over 200 centers throughout New York City. The agreement provides a pathway to pay parity between certified Head Start teachers and entry-rate Department of Education salaries by October 21, 2021.

This agreement follows the deal reached in July between the Day Care Council of New York and District Council 37/1707 Local 205, and both agreements will serve as the model for remaining certified early childhood education providers.

According to the tentative agreement, Local 95 certified teachers will receive the following salary increases over three years:

Increase Schedule	With Master's Degree	With Bachelor's Degree
2/1/19	\$53,135	\$48,232
10/1/19	\$53,581	\$48,372
10/21/20	\$62,235	\$55,651
10/21/21	\$68,652 (\$15,517 more than previous rate)	\$61,070 (\$12,838 more than previous rate)

Non-certified teachers and support staff will receive a \$1000 ratification bonus.

While Local 95 workers are employed by providers who are members of the Head Start Sponsoring Board Council and the agreement was negotiated between those two parties, the City has supported the negotiations. When fully effective the cost of the settlement in Fiscal Year 2023 is approximately \$7 million.

The tentative agreement covers the period through January 31, 2022. The agreement must be ratified by District Council 37 /1707 Local 95's membership.

# Briefs

## State is on Track to End the AIDS Epidemic by End of 2020

The State Health Department released new data this week showing 2018 had the largest decrease in new HIV diagnoses in New York since 2014 and that New York is on track to end the AIDS epidemic by the end of 2020.

New diagnoses for last year reached an all-time low of 2,481 - an 11 percent drop from 2017 and a 28 percent drop since 2014. By comparison, diagnoses decreased by 3.9 percent from 2016 to 2017. Data also shows that almost 32,000 New Yorkers took Pre-Exposure Prophylaxis, or PrEP, in 2018 - an increase of 32 percent from 2017.

In 2014, Governor Andrew Cuomo launched the *Ending the Epidemic* initiative to significantly reduce HIV infections by the end of 2020. The State has allocated an annual \$20 million since 2015 to support the work of the initiative and has spent an estimated \$2.2 billion to increase access to care and treatment for HIV.

## AG James Sues Student Loan Servicer For Mismanaging Loan Forgiveness Program

New York Attorney General Letitia James this week sued the Pennsylvania Higher Education Assistance Agency (PHEAA) — one of the nation's largest student loan servicers — for failing to properly administer the Public Service Loan Forgiveness (PSLF) program. The PSLF program is a federal program that forgives the student loans of borrowers who have made qualifying loan payments while working in public service for 10 years.

In her lawsuit, Attorney General James argues that PHEAA — operating as FedLoan Servicing — has failed to:

- Accurately count PSLF-qualifying payments, and has instead relied on borrowers to catch its multitude of errors;
- Apply policies consistently;
- Provide borrowers with explanations of its determinations; and
- Inform borrowers of their options to appeal FedLoan's mistakes or undo their consequences.

## Court Delays New York's Flavored Vaping Products Ban

A state appellate court on Thursday delayed New York's ban on flavored vaping products used in e-cigarettes. The ban was scheduled to take effect October 4<sup>th</sup>.

The Appellate Division blocked the state from enforcing the ban until a broader injunction motion is decided at the trial level. The suit was filed by the Vapor Technology Association, a trade group that is fighting the ban and has sought restraining order to delay it.

“It is undeniable that the vaping industry is using flavored e-cigarettes to get young people hooked on potentially dangerous and deadly products,” said Health Commissioner Howard Zucker. “While the court’s ruling temporarily delays our scheduled enforcement of this ban, it will not deter us from using every tool at our disposal to address this crisis.”

## **Statewide Minority and Women-Owned Business Enterprise Utilization Rate Grows to Nation-Leading 29.13 Percent**

Governor Andrew Cuomo this week announced that the utilization rate for Minority and Women-Owned Business Enterprises (MWBES) on state contracts increased to 29.13 percent during the 2018-2019 Fiscal Year. In total, MWBES won more than \$2.93 billion in state contracts during the 2018-2019 Fiscal Year.

In 2011, Governor Cuomo set a goal of utilizing MWBES for 20 percent of state contracting. Governor Cuomo raised the goal to 30 percent in 2014. Since 2011, MWBES have won \$15.9 billion in state contracting.

## **Lobbying Disclosure Law Struck Down**

A federal judge has struck down a 2016 state law that increased the donor disclosure requirements for nonprofit organizations that lobby. New York Southern District Federal Judge Denise Cote ruled that the state law was overly broad and infringed on free speech rights.

"The First Amendment rights to publicly discuss and advocate on issues of public interest, and to do so anonymously, have long been recognized," Judge Cote wrote. The state law "sweeps far more broadly than any disclosure law that has survived judicial scrutiny."

The Cuomo Administration is currently reviewing the decision.

## **First-Year Enrollment Increases at CUNY**

Enrollment of first-year students at the City University of New York (CUNY) increased by 2.8 percent this fall, to 40,768 students, according to a CUNY announcement.

Since 2010, the number of first-year students enrolling in CUNY's senior and community colleges has gone up by 17 percent. Nationwide, first-year enrollment figures have remained flat over the same time period at public and private institutions.

"The growth of our freshman classes is a product of CUNY's high-quality academics, extraordinary affordability and the outstanding outcomes our graduates can expect," CUNY Chancellor Félix V. Matos Rodríguez said.

## NYC Office Voter Guide

NYC Votes this week launched the City's official Voter Guide for the 2019 general election, including information detailing the Public Advocate, Queens District Attorney, and City Council District 45 races. The Voter Guide also provides information about the five ballot proposals that voters will be deciding in this election.

Early voting is available in New York for the first time starting on Saturday, October 26 through Sunday, November 3. Election Day is on Tuesday, November 5. Each voter is assigned to vote at a specific early voting poll site. Early voting poll sites may differ from the Election Day poll site. Go to [Voting.NYC](http://Voting.NYC) and click on "Where to Vote" to find your early voting and Election Day poll sites.

## NLRB Extends Comment Period on Part 103 Amendment

The National Labor Relations Board (NLRB) has announced that it is extending the time frame for submitting comments regarding a proposed amendment to Part 103 of its Rules and Regulations. The extended comment period will add 60 days to the previous deadline of October 11, 2019.

The proposed amendment effects the NLRB's blocking charge policy, voluntary recognition bar, and section 9(a) recognition in the construction industry.

## Coming Up

### *New York State*

**Thursday October 10<sup>th</sup>**

#### **The New York Health Act**

Joint Senate Standing Committee on Health and Assembly Standing Committee on Health  
Memorial Art Gallery Ballroom, University of Rochester, 500 University Avenue, Rochester, 10 a.m.

### *New York City*

**Monday October 7<sup>th</sup>**

*Committee on Technology*, Council Chambers – City Hall, 10 a.m.

*Committee on Housing and Buildings*, Council Chambers – City Hall, 10 a.m.

*Committee on Consumer Affairs and Business Licensing*, Council Chambers – City Hall, 10 a.m.

**Tuesday October 8<sup>th</sup>**

*Committee on Youth Services*, Council Chambers – City Hall, 10 a.m.



*Committee on Civil and Human Rights*, Council Chambers – City Hall, 1 p.m.

*Committee on Aging*, Council Chambers – City Hall, 1 p.m.

*Committee on Immigrations*, Committee Room – City Hall, 1 p.m.

*Committee on Mental Health, Disabilities and Addiction*, Committee Room – City Hall, 1 p.m.

***Thursday October 10<sup>th</sup>***

*Committee on Land Use*, Committee Room – City Hall, 11 a.m.



**Wishing you a good Yom Kippur**

**From Pitta Bishop & Del Giorno LLC**

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