



# HPAE

## LOCAL 5138 Newsletter

A Newsletter for the members of HPAE Local 5138 at Southern Ocean Medical Center

HPAE LOCAL 5138 NEWS

March/April 2023

### HPAE Local 5138 Southern Ocean Nurses Union

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### SOMC Nursing Units

<i>Board Members</i>	<i>Anna</i>	<i>Corey</i>	<i>Alice</i>	<i>Colleen</i>
Emergency Department		X		X
Operating Room		X		
PACU		X		
Same Day Surgery		X		
Endoscopy	X			
IR/Cath Lab	X			
Oncology Infusion	X			
Radiology	X			
Radiation Therapy	X			
Bariatric Office			X	
Cardiac Rehab	X			
Wound Care	X			
Outcomes/PI			X	
Med Surg 2			X	
Maternity			X	
Med Surg 3				X
Critical Care Unit				X
Med Surg 4				X
Mancini/Tele				X
Floats	Sherill			

### HPAE RALLY FOR SAFE STAFFING

Join HPAE at the War Memorial in Trenton to tell Lawmakers, Safe Staffing Saves Healthcare. RSVP and reserve your seat on a bus to Trenton

When: **May 11, 2023, 8:00AM to 3:00PM**

Where: **War Memorial, 1 Memorial Drive  
Trenton, NJ 08608**

<https://www.eventbrite.com/e/may-11th-rally-for-safe-staffing-registration-533967339687>



SCAN THE CODE  
TO SIGN UP

**RALLY for  
SAFE STAFFING**  
Thursday, May 11  
Trenton NJ

**NOW MORE THAN EVER,  
we need to unite and make  
our voices heard in Trenton.**

**Scan the QR code to sign up.  
Visit HPAE.org for more information.**

So many of us are exhausted, overworked and ready to quit. Nearly one third have already left hospital bedside nursing.

Our patients are suffering. Lawmakers are failing us.

Now is the time to unite and act. Spread the word. Share online. Wear your stickers. And sign up for the May 11 rally today.



From: [www.nlr.gov](http://www.nlr.gov)

## The Right to Request Representation During an Investigatory Interview

Section 7 of the National Labor Relations Act (NLRA) protects employees' right to "self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection". Among the rights protected by Section 7 is the right of *union-represented employees*, upon request, to have their representative present during an interview that the employee reasonably believes could lead to discipline. This right was first articulated by the Supreme Court in the case, *NLRB v. J. Weingarten, Inc.* In that case, the Court found that Section 7 of the NLRA protects employees who refuse to submit to certain interviews without a requested representative present.

An employee's requested representative, which may be a union steward, business agent or officer, or fellow employee, is often referred to as a "Weingarten representative." Weingarten representatives are entitled to provide advice and active assistance to employees during investigatory interviews. Employees' right to request their representatives are frequently referred to as "Weingarten rights."

Employers violate the NLRA if they proceed with an investigatory interview while refusing an employee's request or retaliate against them for making the request. Depending on the circumstances of each case, the Board may order that the employer cease and desist, post a remedial notice, require the employer to repeat the interview with a union member present, or rescind and remedy discipline resulting from a Weingarten violation.

## When do employees have a right to request a union representative?

An employee's right to request a representative arises during an investigatory interview. A useful comparison is an individual's Miranda right to an attorney when questioned by law enforcement. However, unlike the right to counsel in a Miranda setting, employers are not required to inform union members of their rights under Weingarten.

*Any meeting may be an "investigatory interview" provided that the following occurs:*

A manager, representative of management, or supervisor is seeking to question an employee. The questioning is part of an investigation into the employee's performance or work conduct. During an investigatory interview, a representative of management may require an employee to defend, explain, or admit misconduct or work performance issues that may form the basis for discipline or discharge. The employee reasonably believes that the investigation may result in discharge, discipline, demotion, or other adverse consequence to their job status or working conditions.

The employee requests a union representative. Employers are not required to advise employees of their right to representation and third parties (including union representatives) may not make the request on behalf of the employee. When making a request for a representative, the Board does not require that the employee specify that they need a "Weingarten" representative.

Once an employee requests their representative, they are not required to repeat that request.

At times, it is not clear whether a meeting is investigatory or could lead to discipline. In those cases, the National Labor Relations Board (NLRB) looks to the conduct of the meeting and the surrounding circumstances to determine if there was an investigatory purpose. The Board will consider such factors as the identity/status of the participants, the parties' collective-bargaining agreement and disciplinary practices, whether there was a confrontational tone to the meeting, any notices or warnings issued prior to the meeting, or whether employees had been disciplined for similar misconduct.

## Who may serve as an employee Weingarten representative?

An employee may choose their own representative, who may be a representative of the union or a fellow employee. Employers are required to honor that request, so long as that choice does not unduly interfere with the employer's ability to conduct its investigation. Employees may not request a non-employee representative unless that individual is an officer or business agent of the employee's union. For example, an employee may not request a private attorney or a family member as their Weingarten representative if that individual has no affiliation with the employee's union.

## How should an employer respond to an employee's request for representation?

*When an employee requests a representative during an investigatory interview, an employer may lawfully take one of three courses of action:*

The employer may grant the employee's request and delay the interview until a representative is available.

The employer may deny the request and immediately end the interview, or

The employer may allow the employee to choose whether to proceed with the meeting without a representative or to end the interview.

If the employer denies the request and continues to ask questions, this could constitute an unfair labor practice. Also, it is an unfair labor practice for an employer to discipline an employee for refusing to answer questions without their union representative present.

## What may a union representative do during an employee interview?

Union representatives serve as advisors and witnesses during employee interviews. Employers are required to inform union representatives as to the subject matter of the interview and allow time for that representative to meet with the employee prior to questioning.

During the interview, a union representative may ask the employer to clarify questions, give the employee advice on how to answer questions (within limits), and provide additional information to the employer after the questioning. A union representative may also object to questions if they are badgering, intimidating, or offensive.

## WEINGARTEN RIGHTS

### What are the limitations on union representation during an employee interview?

When representing an employee during an investigatory interview, a union representative must remain civil and may not interfere with an employer's legitimate efforts to conduct an investigation. An employer may lawfully remove a union representative from a meeting if they engage in disruptive or hostile behavior.

A union representative may not tell an employee what to say and may not advise employees to give false answers.

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### PLEASE, ALWAYS REQUEST AN UNION REPRESENTATIVE WHEN MEETING WITH A MANAGER/SUPERVISOR

Contact **Sherill Alteros-Smith** to learn how to be a Union Representative for your colleagues. You never know when you will need someone to represent YOU!

### RN CAP (Registered Nurse Clinical Advancement Program)

RN can submit a CAP application anytime prior to MARCH 31st.

Once approved, the RN will receive the RN CAP bonus annually In JULY for THREE YEARS. Pay out amount is based on which level you apply for and our FTE.

(Ex. Payout for a Full Time Level IV is \$4,000)

The directions are in **The RN CAP reference binders** that were placed on every unit.

### Calling all Bargaining Unit Members!!

We need YOU to represent your unit!!

What is the Role of the Unit Representative?

#### As An Organizer and Communicator:

- Welcomes and orients new union members to HPAE
- Encourages union members to participate in Union events, including membership meetings & rallies
- Distributes flyers, newsletters, and other Union material to union members
- Maintains an accurate list of union members in their designated department
- Communicates the concerns of union members in their department to the LEB Attends membership and Rep meetings

#### As Problem Solver & Contract Enforcer:

- Enforces all provisions of the contract effectively & fairly

- Acts as an advocate, advisor, and witness for members who are attending a disciplinary conference (**Weingarten Rights**)
- With the assistance of Local officers, other Reps, and/or the HPAE Staff Rep, identifies which problems are grievances and files grievances
- Investigates grievances and prepares for grievance hearings if a problem is NOT a grievance, determines what other methods can be used to solve the problem (e.g., petition, meeting with manager/supervisor, etc.)
- Uses grievances and problems to educate and organize the membership.

HPAE offers educational opportunities to learn how to be an effective Union Representative and a Unit Representative.

Contact the HPAE Staff Representatives:

Sherill Alteros-Smith at [sasmith@hpae.org](mailto:sasmith@hpae.org), or Mark Shumar at [mshumar@hpae.org](mailto:mshumar@hpae.org).

## UNION STRONG

Since 2003 the nurses at Southern Ocean Medical Center (SOMC) have fought together to make things better for everyone by joining Health Professionals and Allied Employees (HPAE). Joining HPAE enabled us to negotiate for higher wages and benefits, and improve working conditions in our workplace. It was a tough battle. Administration spent thousands of dollars hiring union busting companies to try to prevent workers' rights to prevail. Since our victory vote, like most hospitals, we have had a huge turnover of RNs. Many of the nurses at SOMC today may take for granted the gains we have celebrated. First and foremost, we are no longer "at will" employees which means that administration could fire us for any reason they saw fit. Now we have job protections in place where administration must have "just cause" for suspension or termination. We now have contract language in place for grievance and arbitration. Unionizing gave us a voice. It gave us collaboration. It gave us respect.

Many of the newer RNs asked why we felt the need to unionize. In 2002- 2003 administration took it upon themselves "to make some tough decisions." Management assured us that "changes were made with a great deal of thought and consideration." They decided on clever ways to cut benefits for part-timers, arbitrarily end a fourteen-year salary agreement for some of the senior critical care nurses, take away sleep time and travel time for those nurses who were required to be on call, and take away the twenty-five percent shift differentials for most of the senior night shift employees. Another cost saving technique that administration subjected us to was "flexing." This was used when acuity dropped and census was low. An RN was told it was their turn to stay home but be near the phone in case they were needed to come in. Keep in mind, this was before cellphones so nurses were stuck at home. The nurses were paid \$2 an hour for doing this service for the hospital. This was not optional. This practice depleted personal leave banks, and many times limited take home pay. Floating was another process that became a safety issue for RNs. When faced with staff shortages, the hospital management would "pull" an RN to another department

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# HPAE

A Newsletter for the members of HP AE Local 5138

110 Kinderkamack Road  
Emerson, NJ 07630  
Phone: 201-262-5005  
www.hpae.org



## Address Service Requested

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### UNIT REP MEETINGS

The following meetings will all be held at 25 Pine St., Manahawkin, NJ 08050:

Unit Reps will meet on the *first Wednesday* of every month at 7:45 PM.

The Local Executive Board will meet the *second Wednesday* of every month.

Staffing Committee members will meet on the *second Wednesday* of every month at 7pm.

Unit Rep Meetings	Staffing Committee Meetings	Unit Rep Meetings	Staffing Committee Meetings
January 4th	11th	July 5th	12th
February 1st	8th	August 2nd	9th
March 1st	8th	September 6th	13th
April 5th	12th	October 4th	11th
May 3rd	10th	November 1st	8th
June 7th	14th	December 6th	13th

### Important Dates

#### Requesting PTO: Article 10.02 PTO/Benefit Time Scheduling

The Hospital shall be reasonable in granting PTO requests and will not assign vacations without the approval of the employee.

PTO Submission

1. March 1st for the same year for dates: June 1st through September 30th.
2. July 1st for dates: October 1st through January 31st.
3. November 1st for dates: February 1st through May 31st.

**See your contract for further instructions & qualifications**

#### Negotiations between HMM and Local 5138 start this month.

Negotiation dates are March 22, 23, 24, 29 and 30 2023. Further dates TBD. Please show your UNION support and wear your HP AE Buttons!!

### UNION STRONG

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even if that RN had absolutely no experience in that area. Because of our union, we now have language to protect our licenses and make sure we are properly oriented to any department we may be placed. Because of our union negotiations our voices were heard. The float pool was born out of our efforts in collective bargaining to address these unit shortages. These examples are just a few of our issues that we addressed. While we are proud of how far we have come, there is so much that we are still fighting for. Through successful contract negotiations, we have made significant progress. Most importantly we have a voice. We now have a legal, binding contract that holds administration to a higher standard.

I am in my final chapter at SOMC. I have enjoyed my 42-year career here in ICU, PACU and Same Day Surgery. I have made so many wonderful memories and friends at SOMC. We are in this fight together to improve patient safety, our working conditions, our education, our wages, and our benefits. I applaud the 7,000 New York nurses that are represented by NYSNA (New York State Nurses

Association) that went on strike this month. These nurses joined together in unity and walked the picket lines for three days. They received national attention for their concerns which are our concerns. They ended their strike after they secured better staffing ratios and higher pay! (19% increase pay spread over three years) Better nurse to patient ratios were the key point in their negotiations. We all know that improved nurse to patient ratios not only improves patient care and outcomes, it reduces nurse burnout and saves lives. The brave New York nurses showed our nation that nurses are stronger when we are united! We should learn from their example.

In Solidarity, Julie George RN, BSN, CCRN, CBN Former Local 5138 Grievance Chair