



**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

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DATE: December 4, 2024

TO: Commissioners

FROM: Counsel Staff

RE: Developments in Counsel's Office since November 26, 2024

Commission Cases

Appeals from Commission Decisions

No new appeals have been filed since November 26.

Commission Court Decisions

No new Commission court decisions have been issued since November 26.

Non-Commission Court Decisions
Related to the Commission's Jurisdiction

Appellate Division affirms police officer's termination after making false statements during IA investigation of drug overdose at officer's home, which led to many other disciplinary charges

In re Palinczar, 2024 N.J. Super. Unpub. LEXIS 2885 (App. Div. Dkt. No. A-2777-22)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms a final Civil Service Commission (CSC) decision upholding the termination of Palinczar's employment as a patrol officer with the Trenton Police Department, on disciplinary charges that were sustained following a hearing before an administrative law judge (ALJ). The precipitating event that led to an internal affairs (IA) investigation – and the ensuing fifty-eight administrative charges filed against Palinczar – occurred when someone overdosed at Palinczar's home, and Palinczar told the EMT that he wanted to keep the incident "on the down low" to avoid "get[ting] into trouble." The IA investigation uncovered a multitude of departmental infractions, which occurred during overlapping time periods, including unreported sick leave, unreported medication in connection with an opioid addiction, and unreported motor vehicle incidents. On appeal, Palinczar challenged certain findings in the ALJ's decision, including that there was a drug overdose at Palinczar's house, Palinczar abused his lawfully prescribed medication, and that Palinczar made false statements and was untruthful. Palinczar also argued that the doctrine of progressive discipline dictated a lesser penalty than termination. In affirming, the Appellate Division held: (1) the CSC's decision was supported by sufficient credible evidence on the record as a whole, and was not arbitrary, capricious, or unreasonable; (2) Palinczar's lack of candor over the course of three years – before and after the overdose incident – underscores the gravity of the offenses sustained, warranting his removal from the Department; and (3) therefore Palinczar's argument that the penalty of removal was excessive and unwarranted was not persuasive.

Appellate Division vacates arbitration award favoring fire officers' union in contract dispute over "terminal leave" retirement benefits, remands for selection of new arbitrator to decide grievance

Newark Fire Officers Union v. City of Newark, 2024 N.J. Super. Unpub. LEXIS 2969 (App. Div. Dkt. No. A-0015-21)

The Appellate Division of the Superior Court, in an unpublished opinion, reverses the Law Division, vacates a grievance arbitrator's award, and remands to the New Jersey State Board of

Mediation for the appointment of a new arbitrator to decide the Newark Fire Officers Union's grievance asserting the City of Newark violated a provision of the parties' CNA in its calculation of a contractual benefit allowing officers to receive either a "lump sum" payout or "terminal leave" upon retirement. The trial court confirmed the award, finding the arbitrator was free to disregard the way the City calculated the benefit when it was first negotiated – and for the thirty years that followed – because the arbitrator's finding that the critical language was "clear and unambiguous" was, the trial court found, "reasonably debatable." In reversing, the Appellate Division held, among other things: (1) the arbitrator exceeded his authority by avoiding the import of the parties' thirty-year past practice of not crediting any retiree – regardless of whether they chose the terminal leave or lump sum option – with vacation and personal days once they were no longer coming to work; and (2) the arbitrator erred in relying on another arbitrator's interpretation (of different language covering the same subject in a different contract involving a different bargaining unit) when he rejected the City's reasonable interpretation of the disputed provision. Though it vacated the award for those reasons, the Appellate Division otherwise rejected the City's claim that the award's expansion of the terminal leave benefit violated public policy.