



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

PO Box 429
TRENTON, NEW JERSEY 08625-0429

www.state.nj.us/perc

ADMINISTRATION/LEGAL
(609) 292-9830

CONCILIATION/ARBITRATION
(609) 292-9898

UNFAIR PRACTICE/REPRESENTATION
(609) 292-6780

For Courier Delivery
495 WEST STATE STREET
TRENTON, NEW JERSEY 08618

FAX: (609) 777-0089
EMAIL: mail@perc.state.nj.us

DATE: June 18, 2025

TO: Commissioners

FROM: Counsel Staff

RE: Developments in Counsel's Office since May 29, 2025

Commission Cases

Appeals from Commission Decisions

Rutgers, the State University of New Jersey, filed an appeal from the Commission's decision, P.E.R.C. No. 2025-38, 51 NJPER 355 (¶81 2025), which reviewed and modified a decision of the Director of Representation in a lengthy dispute over the inclusion of certain Rutgers faculty members in a collective negotiations unit represented by the American Association of University Professors, Biomedical and Health Sciences of New Jersey (AAUP), on AAUP's petition for unit clarification. In its modification, the Commission ordered the inclusion in the AAUP unit of the five remaining disputed employees following the Commission's prior remand to the Director in P.E.R.C. No. 2024-1, 50 NJPER 119 (¶30 2023).

New Jersey Is An Equal Opportunity Employer

The Appellate Division of the Superior Court issued an Order dismissing without prejudice the State of New Jersey's appeal from the Commission's decision, P.E.R.C. No. 2025-25, 51 NJPER 235 (¶56 2025), which reviewed and modified the Director of Representation's decision addressing consolidated clarification of unit petitions concerning whether 1,000+ employees of state colleges and universities should be included in one of the CWA or AFT's statewide units. Following correspondence from Counsel's Office, the court found the decision appealed from is interlocutory and leave to appeal was not sought.

Commission Court Decisions

No new Commission court decisions have been issued since May 29.

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

Appellate Division affirms dismissal of retired Atlantic City police officers' terminal-leave pay claims in dispute over State Monitor's actions under Municipal Stabilization and Recovery Act

Vadell v. Atlantic City, 2025 N.J. Super. Unpub. LEXIS 923 (App. Div. Dkt. No. A-2112-23)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms the Law Division's dismissal of a complaint filed by eleven retired Atlantic City police officers against defendants Atlantic City, the State, and the Department of Community Affairs (DCA). The court described the case as part 4 of "a quartet of cases involving the enactment of [the] Municipal Stabilization & Recovery Act (MSRA)." (Part 3 was detailed in the May 2025 GC Report.) After the City in 2016 was designated an MSRA municipality, a DCA Designee had authority to unilaterally alter the City's collective negotiations agreements with employee unions for purposes of stabilizing the City's finances. The part-4 plaintiffs challenged the Designee's changes to CNA provisions governing "terminal leave" payments for accumulated sick leave upon retirement, claiming they were owed such pay totaling \$750,928. Police unions previously contested the Designee's total elimination of terminal leave,

resulting in a court-imposed temporary restoration of the payments (albeit capped at \$15,000) and a settlement of part 1. The Designee subsequently found the City could afford to fully restore the payments to some who retired by a certain date and continue capped payouts to others. In affirming dismissal of part 4, the Appellate Division held: (1) plaintiffs had no vested contractual right to terminal leave because they all retired after the City became subject to the MSRA; (2) their constitutional claims failed because the MSRA is an exercise of the State's inherent police power to safeguard the City's fiscal operations and provision of basic services to residents; and (3) their challenge to the capped payments was not viable because the City's action was based on fiscal decisions of the Designee to remedy the City's financial distress, and was hardly arbitrary, capricious, or unreasonable.

Appellate Division reverses Civil Service Commission, finds NJDOT employee did not abandon job during COVID-19 shutdown

In re Bartos, 2025 N.J. Super. Unpub. LEXIS 950 (App. Div. Dkt. No. A-3814-22)

The Appellate Division of the Superior Court, in an unpublished opinion, reverses the Civil Service Commission's (CSC's) final administrative action and reinstates the initial decision of an Administrative Law Judge (ALJ), who concluded the New Jersey Department of Transportation (NJDOT) had not sustained its burden of proof for its charge that Bartos, a former NJOT highway technician, resigned not in good standing by abandoning his position effective April 13, 2020. The matter arose at a time when Bartos' workplace was temporarily closed after an employee tested positive for COVID-19, and while essential employees like Bartos were required to be on standby at home and respond to daily check-in calls. When called on April 6, 2020, Bartos stated he would not return to work because he feared contracting COVID-19. NJDOT then sent Bartos a letter giving him until April 16 to report to work. Bartos did not respond or report. NJDOT commenced disciplinary proceedings on April 17. On that day it also received medical documentation placing Bartos on leave effective April 15 for his re-opened workers'

compensation claim. The ALJ found that while Bartos did not intend to return to work on April 16, that issue became moot when NJDOT recognized his worker's compensation claim. The ALJ reinstated Bartos with back pay, benefits, and seniority. The CSC reversed, finding among other things that the medical documentation was unrelated to Bartos' initial failure to return on April 6. In reversing and remanding for further proceedings, the Appellate Division agreed with the ALJ that NJDOT arbitrarily and capriciously selected April 13 as the effective date of abandonment, contrary to NJDOT's own notices to Bartos, for the sole purpose of denying the relief sought.

Appellate Division affirms an order of the Law Division that vacated a finding by a hearing officer recommending the termination of a police officer alleged to have engaged in conduct unbecoming a police officer and reduced the penalty to a 21-day suspension

Pizzuti v. Twp. of Lyndhurst, 2025 N.J. Super. Unpub. LEXIS 968 (App. Div. 2025)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms a Law Division order reducing the termination of Sergeant Richard Pizzuti of the Lyndhurst Police Department to a 21-day suspension. Lyndhurst alleged that Pizzuti violated Department regulations when he brought home evidence from an earlier arrest, then lied about why he left his shift early, and was untruthful about the reasons for removing the items, about whom they belonged and his contention that he did not know what was in the manilla envelope. The hearing officer determined that Pizzuti committed those offenses and that his conduct was grave enough to not consider progressive discipline or his work record when recommending discipline. The Law Division reversed, finding that the record did not prove intentional misrepresentation, and that progressive discipline did apply, and that Pizzuti's decades of service warranted a reduction in the discipline. It also determined that the Chief had decided to terminate Pizzuti before the internal affairs investigation was complete. The Appellate Division affirmed, finding that the trial court's decision was not arbitrary or capricious except to

reverse on one point, finding that Pizzuti was guilty of neglect of duty, which did not change the outcome of the case.

Appellate Division affirms an order of the Civil Service Commission which upheld the termination of a Chief EMT for violating the Township Dating Policy

In re Sampson, 2025 N.J. Super. Unpub. LEXIS 891 (App. Div. 2025)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms a final agency decision of the Civil Service Commission upholding the discipline of a Chief EMT, Michelle Sampson, who did not report an extra-marital affair with a coworker. Upper Township, the employer, terminated the employment of Sampson for violating the Dating Policy, which prohibits romantic relationships between supervisors and subordinates, and requires disclosure of the relationship between any two employees. The record showed that Sampson also used her position to ensure that the wife of the subordinate with whom she had a romantic relationship was not hired as a full-time EMT. The Appellate Division found that her conduct and violation of the Dating Policy justified the CSC's decision.