

449-25
OAL Dkt. No. EDU 04116-21
Agency Dkt. No. 49-4/21

New Jersey Commissioner of Education

Final Decision

Judy Capra, individually, and Wall Township
Education Association, on behalf of itself, Judy
Capra, and bargaining unit members,

Petitioners,

v.

Board of Education of the Township of Wall,
Monmouth County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by petitioners and respondent pursuant to *N.J.A.C. 1:1-18.4*, and petitioners' reply to respondent's exceptions, have been reviewed and considered.

The Wall Township Education Association (Association) is the majority representative of certain employees of the Board of Education of the Township of Wall (Board). Judy Capra (Capra), a member of the Association, is employed by the Board as a part-time paraprofessional. In their petition of appeal, the Association and Capra (petitioners) allege that the Board violated *N.J.S.A. 18A:16-13.2 (P.L. 2020, c. 44, § 5)*, part of legislation known as Chapter 44, by refusing to offer Association members who work less than 20 hours per week enrollment in a health insurance plan equivalent to the New Jersey Educators Health Plan (NJEHP) and Garden State Health Plan (GSHP) at the statutory contribution-sharing amounts.

Upon consideration of petitioners' motion for summary decision and respondent's opposition thereto, the Administrative Law Judge (ALJ) found that the Board is obligated to provide plans equivalent to the NJEHP and GSHP to part-time paraprofessionals based upon the plain language of *N.J.S.A. 18A:16-13.2*. The ALJ rejected the Board's contention that the matter was moot because the parties had negotiated a new collective bargaining agreement since the passage of Chapter 44. Instead, the ALJ determined that the Board must first offer employees the equivalent plans. If there is a resultant net cost increase, the parties must then negotiate to mitigate the financial impact. The ALJ further found that part-time paraprofessionals fit within the broad definition of "employee" codified at *N.J.S.A. 18A:1-1* and are therefore eligible for health benefits under Chapter 44.

In its exceptions, the Board contends that the ALJ should have denied petitioners' motion for summary decision as a matter of law because part-time paraprofessionals are not entitled to health benefits under Section 5 of Chapter 44. The Board asserts that the Legislature intended to define eligible employees for purposes of *N.J.S.A. 18A:16-13.2* as those working no less than 25 hours per week pursuant to the definition of "employee" codified at *N.J.S.A. 52:14-17.26(c)(2)*, and not the definition of "employee" codified at *N.J.S.A. 18A:1-1* relied upon by the ALJ.

In response, petitioners assert that Chapter 44 equivalent plans must be offered to all employees, regardless of the number of hours worked, and that the definition of "employee" codified at *N.J.S.A. 52:14-17.26(c)(2)* is not applicable here. Instead, petitioners agree with the ALJ that the Board is governed by the definition of "employee" set forth at *N.J.S.A. 18A:1-1*. Additionally, in their exceptions, petitioners assert that while they agree with the merits of the ALJ's decision, the recommended remedy must be modified to require reimbursement from the Board.

Upon review, the Commissioner adopts the ALJ's findings of fact but rejects the ALJ's legal conclusion regarding the applicability of the definition of "employee" codified at *N.J.S.A.* 18A:1-1 to Chapter 44. *N.J.S.A.* 18A:16-13.2(a)(1) provides:

Notwithstanding the provisions of any other law, rule or regulation to the contrary, beginning January 1, 2021 and for each plan year thereafter, a board of education as an employer providing health care benefits coverage for its employees, and their dependents if any, in accordance with P.L. 1979, c.391 (C. 18A:16-12 et seq.) shall offer to its employees, and their dependents if any, the equivalent of the New Jersey Educators Health Plan in the School Employees' Health Benefits Program as that plan design is described in subsection f. of section 1 of P.L. 2020, c.44 (C.52:14-17.46.13).

Beginning January 1, 2022 and for each plan year thereafter, a board of education as an employer providing health care benefits coverage for its employees, and their dependents if any, in accordance with P.L. 1979, c.391 (C. 18A:16-12 et seq.) shall also offer a plan for its employees, and their dependents if any, that is the equivalent of the Garden State Health Plan in the School Employees' Health Benefits Program. The board shall provide an enrollment period prior to January 1, 2022.

(emphasis added.)

"Statutory construction principles dictate that we determine the Legislature's intent by first considering the statute's plain language." *Estate of Spill v. Markovitz*, 260 N.J. 146, 155 (2025). The Commissioner does not agree with the ALJ that the plain language of *N.J.S.A.* 18A:16-13.2 supports petitioners' position. This is because the plain language of *N.J.S.A.* 18A:16-13.2(a)(1) does not reference *N.J.S.A.* 18A:1-1 or the definition of "employee" codified therein. However, it does reference *N.J.S.A.* 52:14-17.46.13, which is also part of Chapter 44. See *P.L.* 2020, c. 44, § 1.

Notably, Section 1 of Chapter 44 references the definitional section codified at *N.J.S.A.* 52:14-17.46.2, which defines "employee" in relevant part for purposes of the School Employees' Health Benefits Program after May 21, 2010, as "a person employed in any full-time capacity by an employer who appears on a regular payroll and receives a salary or wages for an average of the number of

hours per week as prescribed by the governing body of the participating employer which number of hours worked shall be considered full-time, determined by resolution, and not less than 25” *N.J.S.A. 52:14-17.46.2(d)(2)(a)*. No other definition of “employee” appears within, or is cross-referenced within, Chapter 44.

Thus, the Commissioner finds that the definition of “employee” codified at *N.J.S.A. 52:14-17.46.2* is applicable to Chapter 44. *See generally Boonton Educ. Ass’n v. Bd. of Educ. of Boonton*, Docket No. A-1670-21, 2022 *N.J. Super. Unpub.* LEXIS 1940 *13 (Oct. 19, 2022) (explaining that “the Commissioner must look to Title 52 to address issues” involving *N.J.S.A. 18A:16-13.2*’s equivalency provision). Consequently, part-time paraprofessionals working less than 25 hours per week are not entitled to health benefits under Section 5 of Chapter 44. The Commissioner’s February 2023 decisions in *Queen City Educational Association v. Board of Trustees of the Queen City Academy Charter School*, Commissioner Decision No. 53-23, and *Franklin Township Education Association v. Board of Education of Franklin Township, Somerset County*, Commissioner Decision No. 54-23, are not inconsistent with the conclusion in this matter because neither *Queen City* nor *Franklin Township* addressed whether part-time paraprofessionals were eligible for coverage.

Accordingly, the Initial Decision is adopted in part and rejected in part, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: September 19, 2025
Date of Mailing: September 22, 2025

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

AMENDED INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 04116-21

AGENCY DKT. NO. 49-4/21

**JUDY CAPRA AND WALL TOWNSHIP
EDUCATION ASSOCIATION,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE TOWNSHIP OF
WALL, MONMOUTH COUNTY,**

Respondents.

Richard A. Friedman, Esq. and **Sheila Murugan, Esq.**, for petitioner (Zazzali, P.C., attorneys)

Jeffrey R. Merlino, Esq., for respondent (Methfessel & Werbel, P.C., attorneys)

Record Closed: April 1, 2025

Decided: May 13, 2025

BEFORE **JOAN M. BURKE, ALJ:**

STATEMENT OF THE CASE

Petitioners Judy Capra and Wall Township Education Association argue that Chapter 44 requires the respondent Wall Township Board of Education (Board) to offer

part-time paraprofessionals employed by the District the ability to enroll in the District's equivalent New Jersey Educator's Health Plan ("NJEHP") and Garden State Health Plan ("GSHP") at the statutory contribution-sharing amounts as required by P.L. 2020, c.44 ("c.44"). The Board contends that the matter is moot because it has already fulfilled its obligation under Chapter 44.

PROCEDURAL HISTORY

A petition of appeal was filed by petitioners with the Commissioner of Education ("the Commissioner") on April 8, 2021. An answer was filed by the Board, and the matter was transmitted to the Office of Administrative Law ("OAL") as a contested case on May 7, 2021. The matter was originally assigned to the Hon. David Fritch, ALJ. Judge Fritch moved to the Superior Court of NJ, and the matter was transferred to the Hon. Susan Scarolla, ALJ. Judge Scarolla conducted a settlement conference with the parties, and no resolution was reached. The matter was transferred to the undersigned on July 3, 2024. Status conferences were held on August 9, 2024, and September 26, 2024. I requested the parties to prepare a joint stipulation of facts. On October 17, 2024, petitioners requested a briefing schedule for a motion for summary decision. Petitioners' Motion for Summary Decision was received on December 2, 2024. Opposition to the Motion was filed by the Board. Petitioners replied to the Opposition. The record closed on April 1, 2025.

FINDINGS OF FACT

The following facts were stipulated to by the parties, and therefore, I **FIND** them as **FACT**:

1. The Wall Township Board of Education and the Wall Township Education Association are parties to a Collective Bargaining Agreement ("CBA") (Joint Ex. A) governing certain terms and conditions of employment for recognized full- and part-time positions. (Parties' Joint Stipulated Facts and Exhibits)

2. The Board is not a participant in the School Employees Health Benefits Program ("SEHBP"). Instead, it provides health insurance through a private health insurance carrier. (Ibid.)

3. Petitioner Judy Capra has been employed as a part-time lunch paraprofessional and is a member of the Wall Township Education Association. Mrs. Capra works approximately twelve (12) hours per week and earns an annual salary of approximately \$8,806. Other part-time lunch paraprofessionals similarly work about ten (10) to twelve (12) hours per week. (See Joint Ex. B; Ibid.)

The CBA provides in ARTICLE 67, MEDICAL INSURANCE:

- A. Paraprofessionals may purchase EPO Health Insurance at their own expense through the Board. Effective the 2005–2006 school year, the Board will pay 30% of the yearly premium. Paraprofessionals may purchase family coverage at the Board rates. If a paraprofessional opts to purchase family coverage, the 30% Board contribution towards the premium only applies to single coverage. The following plans may be purchased: Single EPO plan without prescription – Single EPO plan with prescription – Family EPO plan without prescription – Family EPO plan with prescription.

- B. Paraprofessionals may purchase other plans offered by the District and pay the additional cost. The Board will contribute 30% of the cost of premium for the EPO single coverage.

- C. Paraprofessionals may purchase dental coverage at 100% of the cost.

- D. Should a “cadillac tax” be imposed during the life of or duration of this contract, the parties agree to open the contract and renegotiate health benefit plans and employee contribution toward the cost of premiums.

(Ibid.)

4. Governor Christie signed P.L. 2011, Ch. 78 ("Chapter 78") into law, effective June 28, 2011. This law provided for changes to the health insurance plans and the manner in which eligible full-time employees, including paraprofessionals, contribute a percentage of premiums towards health benefits. (Ibid.)

5. Since Chapter 78's implementation, the District does not charge full-time paraprofessionals 70% of the cost of coverage under Article 67 of the CBA. Instead, the District applies Chapter 78's premium contribution formula, or more recently, the salary contribution under P.L. 2020, Ch. 44. Part-time paraprofessionals, including the lunch paraprofessionals, continued to be required to purchase health insurance coverage pursuant to the above CBA language in Article 67. No part-time paraprofessional has elected to do so. (Ibid.)

On or about July 1, 2020, Governor Murphy signed into law, P.L. 2020, Ch. 44 ("Chapter 44"), requiring school districts to offer two (2) new health insurance plans to employees in addition to the plans under Chapter 78. Chapter 44 requires the Board to offer employees and their dependents a health care plan equivalent to the New Jersey Educators' Health Plan ("NJEHP"). Effective July 1, 2022, Chapter 44 requires the Board to offer employees and their dependents a health care plan equivalent to the Garden State Health Plan ("GSHP"). (Ibid.)

6. Unlike the premium sharing set forth in Chapter 78, the Chapter 44 NJEHP and GSHP plans require that employees only pay a percentage of their salary toward medical and prescription drug coverage, with the districts paying the remainder. For employees with an annual base salary of \$40,000 or less, the employee's share of coverage is: 1.7% of salary for single coverage; 2.2% for parent and child(ren) coverage; 2.8% for employee and spouse coverage; and 3.3% for family coverage. (Ibid.)

7. During the 2020–21 school year, Mrs. Capra requested to enroll in the NJEHP plan for herself and her dependents using the cost sharing under Chapter 44 instead of the negotiated CBA language in Article 67. The Board contends that because Mrs. Capra was not eligible for health benefits under Chapter 78, she is also not eligible under Chapter 44. The Board asserted that part-time employees, like Mrs. Capra, are subject solely to the negotiated alternate arrangement under the CBA in Article 67. (ibid.)

8. Petitioners contend that regardless of the work hours assigned to each employee, part-time lunch paraprofessionals are eligible to enroll in the NJEHP or GSHP at the statutory contribution-sharing amounts as a matter of law under Chapter 44. (ibid.)

Arguments of the Parties

Petitioners Capra and the Wall Township Education Association argue that Chapter 44 requires that “the Board must permit all employees the election, or if hired after the effective date they are required, to be enrolled in the NJEHP or GSHP at the statutory contribution-sharing amounts.” (Pet’rs’ Dec. 2, 2024, Br. at 3.) Specifically, petitioners assert that Chapter 44 “preempts and supersedes the contract language, which of significance was negotiated prior to the passage of c.44, because this legislation expressly sets terms and conditions of employment that may not be contravened by negotiations.” (ibid.) Petitioners argue, “the provision of c.44, which the Board seemingly relies upon is inapplicable.” (ibid.) They posit:

This section of c.44 provides that employees whose hire dates are on or after July 1, 2020, and were not eligible to enroll prior to that for health care coverage provided by the employer, are not required to be mandatorily enrolled in the NJEHP or GSHP. However, part-time paraprofessionals were entitled to enroll in health care coverage under the District’s plans at 70% of the cost of coverage. Therefore, under c.44 part-time paraprofessionals are entitled health benefits

coverage, regardless of whether or not they were eligible for health benefits under P.L. 2011, c.78 (“c.78”).

[ibid.]

The Board responds that this matter is moot. Specifically, the Board argues it has already fulfilled its obligations under Chapter 44, since the parties negotiated the 2022–2027 agreement after Chapter 44 had been implemented. The Board alleges the time for petitioners to modify the benefits arrangement was at the bargaining table, since the Board had provided the Association with annual insurance rates to allow for “educated negotiations.” The Board cites a 2023 report from AON, the State’s actuary of health benefit plans, for the proposition that “Chapter 44 does not create a new contribution requirement for individuals who are not otherwise required to pay participant contributions prior to the adoption of Chapter 44.” (Resp’t’s Jan. 22, 2025, Br. at 7.)

According to the Board:

Chapter 44 requires the parties to negotiate to substantially mitigate the financial impact of the difference between the 2019–22 Collective Bargaining Agreement and the formula under Chapter 44. The parties satisfied the obligation when it negotiated the 2022–2027 Collective Bargaining Agreement **after** the implementation of Chapter 44.

[Resp’t’s Br. at 9.]

The respondent further argues that:

[t]he Association is attempting to inappropriately stick the additional health benefit costs upon the Board while the Association avoids the outcome of the 2022 negotiations as how the parties agreed to substantially mitigate the financial impact. . . . Not only would the Board save money, the Petitioners would realize a windfall negatively impacting the educational programming of the District.

[Resp’t’s Br. at 12.]

In the petitioners’ reply brief, it was noted that the Board’s position that it “cannot enroll paraprofessional until negotiations to mitigate future costs are complete” is contrary

to the law. (Pet'rs' Feb. 14, 2025, Reply Br. at 2.) The petitioners further argued that the Board's position that the AON Report "bars paraprofessionals from being eligible to enroll in coverage" fails for two reasons. First, because it was "not promulgated by any state office or agency" and therefore has no binding effect. (See Pet'rs' Feb.14, 2025, Reply Br. at 5.) Second, pursuant to N.J.S.A. 18A:16-13.2(b), which states:

Prior to January 1, 2021, each employer shall provide an enrollment period during which all employees who commenced employment prior to the effective date [July 1, 2020] of this act shall be required to select affirmatively a plan provided by the employer. If an employee fails to select affirmatively a plan during this enrollment period, the employer shall enroll the employee, and the employee's dependents if any, in the equivalent New Jersey Educators Health Plan offered pursuant to subsection a. of this section for the year January 1, 2021 until December 31, 2021.

During the enrollment period, ***each person who is enrolled in a plan offered by the employer and who is paying the full cost of coverage*** shall also be required to select affirmatively a plan provided by the employer. If a person fails to select affirmatively a plan during this enrollment period, the employer shall enroll the person, and the person's dependents if any, in the equivalent New Jersey Educators Health Plan offered pursuant to subsection a. of this section for the year January 1, 2021 until December 31, 2021. ***Any such person shall continue to pay the full cost of coverage and shall not be subject to the contribution schedule or any mandatory enrollment period as set forth in this section.***

No paraprofessionals were enrolled in any plan offered by the Board. Therefore, "no paraprofessional at issue was subject to this provision of c.44 and is now required under this statute to pay the full cost of coverage." (Pet'rs' Reply Br. at 6.)

LEGAL ANALYSIS

N.J.A.C. 1:1-12.5(b) provides that summary decision should be rendered "if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is

entitled to prevail as a matter of law.” Our regulation mirrors R. 4:46-2(c), which provides that “[t]he judgment or order sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.”

A determination whether a genuine issue of material fact exists that precludes summary decision requires the judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. Our courts have long held that “if the opposing party . . . offers . . . only facts which are immaterial or of an insubstantial nature, a mere scintilla, ‘Fanciful, frivolous, gauzy or merely suspicious,’ he will not be heard to complain if the court grants summary judgment.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 529 (1995) (citing Judson v. Peoples Bank & Trust Co., 17 N.J. 67, 75 (1954)).

The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” Brill, 142 N.J. at 540 (citing Anderson v. Liberty Lobby, 477 U.S. 242, 249 (1986)). When the evidence “is so one-sided that one party must prevail as a matter of law,” the trial court should not hesitate to grant summary judgment. Liberty Lobby, 477 U.S. at 252. I **CONCLUDE** that this matter is ripe for summary decision. The petition of appeal raises a purely legal question, one which asks that I determine if the plain language of Chapter 44 requires the respondent to offer the NJEHP-equivalent plan to all employees and whether Article 67 of the 2019–2022 collective negotiations precludes paraprofessional from enrollment in the NJEHP and GSHP plans at statutory cost-sharing amounts. I **CONCLUDE** that the law supports the petitioners’ position and that they are entitled to the relief they seek.

Article 67 of both the 2019–2022 and 2022–2027 Collective Bargaining Agreements requires district paraprofessionals to pay 70% of single coverage premiums and 100% of family coverage premiums, with the Board contributing 30% of the cost of

the premium toward single coverage. Neither agreement offers paraprofessionals an equivalent plan to the New Jersey Educators Health Plan (“NJEHP”) or Garden State Health Plan (“GSHP”) at the statutory contribution-sharing amounts set forth in N.J.S.A. 52:14-17.46.14 and N.J.S.A. 52:14-17.46.16.

The Board argues that the petitioners’ claim is moot because the parties have negotiated a new collective bargaining agreement since the passage of Chapter 44. I disagree. Chapter 44 requires that an employer must first offer and implement an NJHEP-equivalent plan *before* negotiating the effects of any negative financial impacts.

The proper scope of public employment negotiations is governed by a “time-honored” three-pronged standard set forth in Local 195, IFPTE v. State, 88 N.J. 393 (1982). Robbinsville Twp. Bd. of Educ. v. Washington Twp. Educ. Ass'n, 227 N.J. 192, 199 (2016). A term or condition of employment is properly negotiable if: “(1) the item intimately and directly affects the work and welfare of public employees; (2) the subject has not been fully or partially preempted by statute or regulation; and (3) a negotiated agreement would not significantly interfere with the determination of governmental policy.” In re Local 195, 88 N.J. at 404.

As to the second prong, a topic of employment negotiations is not automatically precluded just because of “the mere existence of legislation relating to a given term or condition of employment.” Bethlehem Twp. Bd. of Educ. v. Bethlehem Twp. Educ. Ass'n, 91 N.J. 38, 44 (1982). Instead, a subject is preempted when the legislative provision relating to the subject “speak[s] in the imperative and leave[s] nothing to the discretion of the public employer.” In re Ridgefield Park Bd. of Educ., 244 N.J. 1, 18 (2020) (internal citations omitted). Thus, a legislative provision “which expressly set[s] terms and conditions of employment . . . for public employees may not be contravened by negotiated agreement.” Ibid. (internal citations omitted).

Here, Chapter 44 speaks in the imperative and leaves no discretion to the employer as to the decision to offer an NJEHP- or GSHP-equivalent plan at the statutory contribution amounts. As petitioners argue, Chapter 44 mandates that the equivalent plans “shall” be offered, dictates which employees are required to be enrolled in such

plans, and sets forth the specific contribution-sharing amounts. See N.J.S.A. 18A:16-13.2. Chapter 44 contains no precatory or discretionary language granting the authority to refuse to offer employees these plans. Chapter 44 provides no exception for a district to refuse to provide the plans at the statutory contribution amounts.

The Board argues that Chapter 44 does not preempt the 2022–2027 agreement, which was negotiated with knowledge of Chapter 44. The Board points to the amendments to Chapter 44, which require parties to negotiate “to substantially mitigate the financial difference” between a previous collective bargaining agreement and the Chapter 44 requirements. Section 8 of Chapter 44, as amended by Section 3 of Chapter 163, does require parties to undergo negotiations “to substantially mitigate the financial impact” to the employer where an increase in costs occurs “as a result of” changes required by Chapter 44.

The petitioners posit that “the plain language of c.44 requires respondent to offer an NJEHP and GSHP-equivalent plan to all employees. Certain employees are required to be enrolled in the NJEHP or GSHP based upon their hire date, while other employees may elect to be enrolled in the plan of their choice.” (Pet’rs’ Dec. 2, 2024, Br. at 8.) Petitioners state that the Public Employment Relations Commission (PERC) addressed this issue in Franklin Twp. Educ. Ass’n v. Bd. of Educ. of Franklin Twp., 2023 NJ PERC LEXIS 5, Final Decision (Jan. 26, 2023). In that case, PERC reasoned that any net-cost increase to an employer “as a result of” offering the NJEHP-equivalent plan is necessarily “speculative in nature until after the Board has actually offered and implemented that plan.” Id. at 2. Accordingly, the Commission agreed with the ALJ that Chapter 44 clearly and unambiguously requires employers to first offer an NJEHP-equivalent plan, rejecting the board’s argument that a board does not have to offer the plan until after the mitigating negotiations take place. Additionally, the Commission held that the matter was not moot just because the board had agreed to hold an open enrollment to determine how many employees would select the NJEHP plan for consideration during negotiations. PERC reasoned this did not “cure” the board’s ongoing refusal to offer such a plan.

I therefore **CONCLUDE** that the meaning of this provision has been clearly established: employers must first offer employees the equivalent plan; then, if there is a net cost increase, the parties must negotiate to mitigate the financial impact.

The Commissioner of Education has since reached a similar conclusion in Queen City Acad. Educ. Ass'n v. Queen City Acad. Bd. of Trs., EDU 01028-21, Initial Decision (Jan. 20, 2023), adopted, Comm'r (Feb. 28, 2023) https://njlaw.rutgers.edu/collections/oal/html/initial/edu01028-21_1.html. The commissioner agreed with the ALJ that the language of Chapter 44 “requires negotiations only after the Board offers an NJEHP-equivalent plan, if there is a net cost increase.” Thus, under the amendments to Chapter 44, the Board must first provide the equivalent plan and *then* proceed to negotiations over any increase in net costs.

Accordingly, the Board in this matter was required to offer employees like petitioner the option to enroll in an equivalent plan *before* negotiating the 2022–2027 collective bargaining agreement with the Association. There is no dispute that the Board has not done so. The Board cites an AON report for its failure to do so, but, as petitioners point out, this report is not law and is therefore not binding. Thus, the Board’s refusal was in violation of Chapter 44, which preempts both the 2019–2022 and 2022–2027 collective bargaining agreements.

Furthermore, Chapter 44 provides that notwithstanding the provisions of any other law, rule, or regulation to the contrary, beginning January 1, 2021, a board of education as an employer providing health care benefits coverage for its employees “shall offer to its employees, and their dependents if any, the equivalent of the [NJEHP] in the [SEHBP] as that plan design is described in [N.J.S.A. 52:14-17.46.13].” N.J.S.A. 18A:16-13.2(a)(1). The plans under this section shall be offered by the employer regardless of any collective negotiations agreement between the employer and its employees in effect on the effective date (July 1, 2020) that provides for enrollment in other plans offered by the employer. N.J.S.A. 18A:16-13.2(a)(2).

Chapter 44 requires affected employees and retirees to contribute annually toward the cost of their health care benefits coverage an amount equal to a percentage of each

employee's annual base salary or retiree's annual retirement allowance, according to a range of specified contribution rates and a corresponding range of specified salaries/retirement-allowances, as set forth in N.J.S.A. 52:14-17.46.14 and as calculated according to N.J.S.A. 52:14-17.46.16. By setting the required contribution solely as a percentage of base salary/retirement allowance, Chapter 44 eliminates the requirement under Chapter 78 that tied the contribution amount to a percentage of the premium. For the plan year commencing on January 1, 2028, and for each plan year thereafter, Chapter 44 permits the contribution amounts to again be modified through collective negotiations. N.J.S.A. 52:14-17.46.14(h).

The statutory definition of “employee” provides no minimum hourly or weekly requirement to qualify for entitlement to coverage under Chapter 44 for employers like the Board who do not participate in SEHBP. Instead, N.J.S.A. 18A:1-1 defines “employee” as “the holder of any position or employment.” As a part-time lunch paraprofessional, petitioner fits within this broad definition. I therefore **CONCLUDE** that petitioner Capra and other part-time paraprofessionals are thus covered by Chapter 44’s entitlement to healthcare coverage, and the Board was required to provide the option to enroll in an equivalent plan at the amounts set forth by N.J.S.A. 52:14-17.46.14 and N.J.S.A. 52:14-17.46.16 before negotiating the 2022-2027 collective bargaining agreement.

When interpreting a statute or regulation, our courts assume that the framers intended to ascribe to words their ordinary meaning. Jablonowska v. Suther, 195 N.J. 91, 105 (2008). The intent of a statute or regulation should be gleaned from a view of the whole and of every part of the statute, with the real intention prevailing over the literal sense of its terms. Schierstead v. City of Brigantine, 29 N.J. 220, 230 (1959). I **CONCLUDE** that the plain language of N.J.S.A. 18A:16-13.2 supports petitioners’ view that P.L. 2020, Chapter 44 requires public employers to provide an equivalent plan to the NJEHP or GSHP to its employees at specific statutory contribution rates based on the employee’s annual base salary or retirement allowance. This language is mandatory, leaving no discretion to the employer to decide whether such a plan should be offered or to decide at what rates employees must contribute to such plans.

ORDER

Based on the foregoing, it is **ORDERED** that Summary Decision is **GRANTED** in favor of petitioners, Judy Capra and the Wall Township Education Association. It is further **ORDERED** as follows:

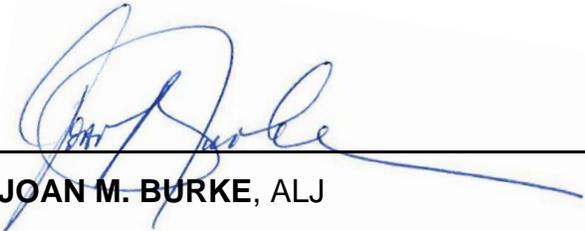
1. All part-time paraprofessionals are allowed to be enrolled in the NJEHP or GSHP plans at the statutory cost-sharing amount.
2. Respondent is to cease from charging paraprofessionals 70% of the cost of coverage if enrolled in a c.44 plan;
3. Respondent is to reimburse any members wrongfully charged, retroactive to January 1, 2021.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, P.O. Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 13, 2025

DATE



JOAN M. BURKE, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

JMB/kd/jm

APPENDIX

Exhibits

Joint Exhibits:

The Parties' Joint Stipulated Facts and Exhibits

For petitioner:

Petitioners' December 2, 2024, Brief

Petitioners' February 14, 2025, Reply Brief

For respondent:

Respondent's January 22, 2025, Brief