



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

**PO Box 429
TRENTON, NEW JERSEY 08625-0429**

www.nj.gov/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.nj.gov**

DATE: October 15, 2025

TO: Commissioners

FROM: Counsel Staff

SUBJECT: Developments in Counsel's Office since September 25, 2025

Commission Cases

Supreme Court Argument Scheduled

Oral argument before the Supreme Court was tentatively scheduled for either October 20 or 21, 2025, in Rutgers' petition for certification seeking review of the judgment of the Superior Court, Appellate Division, In re Rutgers, 2024 N.J. Super. Unpub. LEXIS 3033, affirming the Commission's decision, P.E.R.C. No. 2024-2, 50 NJPER 124 (¶31 2023). The Commission denied Rutgers' petition to restrain binding arbitration of grievances filed by AFSCME Local 888 alleging Rutgers terminated, without just cause, the employment of two unit members following Title IX proceedings conducted by Rutgers. The Appellate Division affirmed, rejecting Rutgers' claim that the "grievance process" required by Title IX (which prohibits sex-based discrimination in any school or education program that receives federal funding) preempts collectively negotiated grievance procedures that may be available to represented employees after discipline has been imposed based upon determinations of misconduct under the Title IX Policy.

Appellate Division Decision Issued

The Appellant Division of the Superior Court, in an unpublished decision, In re City of Linwood, 2025 N.J. Super. Unpub. LEXIS 1769 (App. Div. September 29, 2025), affirmed a decision by PERC's Director of Arbitration, PERC Dkt. No. DA-2025-001, which dismissed as untimely Appellant Jay Loder's Special Disciplinary Arbitration Request to appeal his termination as a firefighter with the City of Linwood. On appeal Loder did not dispute his request was untimely but urged the court to consider his request under the civil service rules or to apply equitable principles. Rejecting those arguments, the Appellate Division found that because the City is not a Civil Service jurisdiction, the Civil Service laws were not applicable to Loder. Additionally, the court found that there was no basis to extend equitable considerations.

New Appeal Filed

FOP Lodge 106 filed an appeal from the Commission's decision, P.E.R.C. No. 2026-001, which granted Essex County's request for a restraint of binding arbitration of the FOP's challenge to the County's refusal to provide health insurance waiver opt-out payments to FOP members who received alternate State Health Benefits Plan (SHBP) health coverage through a spouse.

Motion for Leave to Appeal Filed

The Faculty Association of County College of Morris filed a motion for leave to appeal the Commission's interlocutory decision, P.E.R.C. No. 2025-39, 51 NJPER 361 (¶82 2025), recon. den. P.E.R.C. No. 2026-3. The Commission decision reviewed a Hearing Examiner's decision upholding the union's charge that the employer retaliated against six-unit employees for protected union activity by not reappointing them to their faculty positions for the 2021-2022 academic year. The Commission remanded, directing the Hearing Examiner to hold a supplemental hearing and issue supplemental findings and a report reapplying the standards set forth in Bridgewater Tp., 95 N.J. 235 (1984), to determine whether an unfair practice occurred.

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

Third Circuit reverses N.J. District court, finding that NJIT was not entitled to summary judgment on claims that it disciplined a University professor in retaliation for exercising his First Amendment rights

Jorjani v. NJIT, et al., 151 F.4th 135 (3d Cir. 2025) (3d. Cir. Dkt. No. 24-2588)

The Third Circuit, in a precedential opinion, reverses the District of New Jersey's grant of summary judgment to NJIT on claims that it violated a professor's First Amendment rights when it did not renew Professor Jason Jorjani's contract. Without informing the University, as required by policy, Jorjani formed the "Alt Right Corporation" to "widen the message of his philosophy, which he describes as an affirmation of the Indo-European Tradition." Jorjani also wrote essays and spoke at conferences where he "argued that human racial equality is a left-wing myth and that a great Promethean mentality rests on a genetic basis which Asians, Arabs, Africans, and other non-Aryan peoples lack." In 2017, an individual met with Jorjani who recorded a conversation with him where explained his views and beliefs, in part stating that "we will have a Europe, in 2050, where the banknotes have Adolf Hitler, Napoleon Bonaparte, Alexander the Great. And Hitler will be seen like that..." A recording of this meeting and accompanying news article in the New York Times was published shortly thereafter. As a result of the fallout from the article, NJIT placed Jorjani on paid leave and did not renew his contract. Jorjani then brought legal action claiming his First Amendment rights were violated by NJIT. The District Court dismissed his complaint, finding that his speech was not protected by the First Amendment. The Third Circuit reversed, finding that his speech was protected, that the record evidence showed there was little disruption to the University, and that the University's interest did not outweigh Jorjani's interests to speak as a private citizen on matters of public concern.

Appellate Division affirms a Law Division order confirming an arbitration award reinstating a University Professor but reverses the granting of attorney's fees and costs

Rutgers v. AAUP-Biomedical and Health Sciences of NJ, 2025 N.J. Super. Unpub. LEXIS 1883 (App. Div. Dkt. No. A-3986-23)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms the confirmation of an arbitration award reinstating a University professor, but vacates the portion of

the award that provided for attorneys' fees and costs. Dr. Lily Arora was employed by the University as a part-time clinical assistant professor who worked twenty hours per week, including in patient care. At the same time, Arora also started a private practice, which was approved by the University from 2010 to 2019. This was a cash-only business for which Arora was not an approved provider through any insurance carrier. In 2019, Arora's hours were reduced to 16 per week, but she was given the option to perform four hours of telehealth work. To do so, she needed to participate in commercial health plans and third-party payor programs. Arora was concerned that she would not be able to continue her cash-only private practice and sought to review the insurance contracts, or to work four hours in a different capacity. Rutgers refused to provide documentation showing that her private practice would not be impacted, and Arora refused to provide telehealth services. Arora also refused to attend a performance evaluation meeting unless a union representative was present and insurance contracts were produced. Eventually, the University terminated Arora's employment for insubordination. A grievance was filed, and after a hearing the arbitrator determined that the dismissal was inappropriate and faulted the University for refusing to provide even redacted insurance contracts that would ensure Arora could continue her private practice. The arbitrator also determined that the refusal to meet for a performance evaluation was reasonable where the University did not permit a union official to be present, and that once a faculty colleague was allowed to be present, Arora attended the meeting. The arbitrator reinstated Arora and allowed her to choose a 16-hour per week position (which was available) or a 20-hour per week position if the parties agreed to the terms regarding insurance coverage. The arbitrator awarded costs and attorneys' fees. The Law Division affirmed the award. The Appellate Division reversed only the award for attorneys' fees, finding the issue was waived by the AAUP.

Appellate Division affirms CSC's removal of correctional officer for failing to follow suicide watch protocol and untruthfulness.

IMO Howard, 2025 N.J. Super. Unpub. LEXIS 1760 (App. Div. Dkt. No. A-3889-22; A-2406-23)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms the CSC's decision upholding of the removal of Essex County correctional officer Idesha Howard who did not

conduct a "close custody" check of an inmate on suicide watch. Records from the jail indicated that Howard conducted checks approximately every 15 minutes between 1:00am and 2:00am on August 28, 2018. Howard only visited the cell in person on two occasions and used a video camera to check the remaining 4 times. However, the video camera was covered by paper towels at 1:46am, and the inmate was found to have committed suicide at 6:00am. The Essex County prosecutor's office charged Howard with knowingly engaging in conduct which creates a substantial risk of death to another person and knowingly making a false record, with the intent to defraud. Similar disciplinary action was brought against Howard for which she was immediately suspended and ultimately dismissed from employment. The criminal charges were dismissed. After a hearing at OAL, the ALJ determined that the County had just cause to terminate Howard's employment and that the applicable time periods for issuing discipline were not violated. Both the CSC and Appellate Division affirmed.