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DATE: November 16, 2026

TO: Commissioners

FROM: Counsel Staff

RE: Developments in Counsel's Office since October 22, 2026

Commission Cases

Appeals from Commission Decisions

No new appeals have been filed since October 22.

Rutgers, the State University of New Jersey, and American Association of University Professors (AAUP), Biomedical and Health Sciences of New Jersey, App. Div. Dkt. No. A-003155-24, P.E.R.C. No. 2025-38, 51 NJPER 355 (¶81 2025)

Oral argument was held in Rutgers' appeal from a Commission decision on AAUP's petition for unit clarification, in a lengthy dispute over the inclusion of certain Rutgers faculty members in AAUP's collective negotiations unit. The Commission reviewed a remand decision of the Director of Representation, which the Commission ordered in P.E.R.C. No. 2024-1, 50 NJPER 119 (¶30 2023). In its final decision on appeal, the Commission ordered the inclusion in the unit of five remaining disputed employees, finding they lacked supervisory status and could not be excluded on that basis.

Commission Court Decisions

No new decisions have been issued since October 22.

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

Appellate Division reverses Department of Education decision finding Rutgers is subject to State oversight over new academic degree programs

In the Matter of the Applicability of Certain Statutes and Regulations to Rutgers, The State University of New Jersey, 2026 N.J. Super. LEXIS 2354 (App. Div. 2026) (App. Div. Dkt. No. A-3160-23)

The Appellate Division of the Superior Court, in an unpublished opinion, reverses final administrative decisions of the Office of the Secretary of Higher Education (OSHE) which held that Rutgers must comply with certain regulations that required the New Jersey Presidents' Council (NJPC) to review Rutgers' proposed new academic degree programs, and that authorized OSHE to reject/veto them.

The dispute arose after OSHE adopted the regulations in March 2022. OSHE rejected Rutgers's claim of exemption and ordered the University to cease and desist implementing new programs for the 2023–2024 academic year without prior state approval. OSHE argued that Rutgers had ceded its historical charter-based autonomy when it became "The State University" under the Rutgers Acts of 1945 and 1956, and that its voluntary participation in NJPC program reviews since 1994 constituted a waiver of any exemption.

The Appellate Division reversed. The court held that Rutgers remains a pre-1887 charter institution and continues to be exempt from state oversight with respect to its academic programming. The court determined that the 1956 Rutgers Act created a hybrid "public, but autonomous" institution, specifically guaranteeing Rutgers a high degree of self-government to be exercised "without recourse or reference to any department or agency of the State" except as expressly provided. It found that the State's reliance on its general "visitorial" power did not extend to full regulatory authority over Rutgers' academic programs. Finally, the court held that Rutgers' past participation in the NJPC process from 1994 to 2022 was voluntary, which did not constitute a waiver of its statutory and autonomy.

Appellate Division affirms reinstatement of Police Chief, Captain, and Lieutenant after finding no evidence of retaliation or CEPA violations to support their removals

IMO Rudolph Beu, Adam Austino, and Thomas Riordan, Vineland Police Department, 2026 N.J. Super. LEXIS 2381 (App. Div. 2026) (App. Div. Dkt. Nos. A-0391-24 / A-1794-24 / A-2785-24)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms three final administrative decisions of the Civil Service Commission (CSC) that adopted separate administrative law judge (ALJ) decisions reversing the disciplinary removals of

Vineland Police Department Chief Rudolph Beu, Captain Adam Austino, and Lieutenant Thomas Riordan. Following an independent investigation by a consultant retained to review union grievances and potential civil liability under the Conscientious Employee Protection Act (CEPA), the City of Vineland terminated the officers for allegedly creating a culture of discrimination and to prevent future retaliation against Department employees. The separate ALJs determined —and the CSC affirmed— that the City failed to prove any actual retaliation, discrimination, or CEPA violations, as no officers suffered an adverse employment action and the management decisions were within the department's administrative discretion. On appeal, the Appellate Division rejected the City's argument that it could act preemptively to terminate the officers to prevent potential CEPA liability without proving retaliatory conduct occurred. The court also held that the CSC had jurisdiction to consider CEPA issues when deciding disciplinary matters, and that a CSC Chair's abstention did not invalidate the unanimous 4-0 vote to reinstate Chief Beu.