



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

May 28, 2009

MEMORANDUM

TO: Commissioners

FROM: Ira W. Mintz
General Counsel

SUBJECT: Supplemental Report on Developments in the Counsel's Office Since April 30, 2009

Other Cases

In In re Lynette Butler, App. Div. Dkt. No. A-5582-07T1 (5/27/09), the Appellate Division held that the Police and Firemen's Retirement System does not delegate any authority to the PFRS to award backpay or counsel's fees to a member of the system if it denies an application by an employer to involuntarily retire the member on an ordinary disability pension. When the Legislature has determined that a state administrative agency should have authority to award back pay and/or counsel fees, it has expressly so provided in the agency's enabling legislation.

In Renna v. Union Cty., ___ N.J. Super. ___ (App. Div. 2009), the Court held that all requests for OPRA records must be in writing; that such requests shall utilize the forms provided by the custodian of the records; however, no custodian shall withhold such records if the written request for such records, not presented on the official form, contains the requisite information prescribed in N.J.S.A. 47:1A-5(f).

In Paff v. City of East Orange, ___ N.J. Super. ___ (App. Div. 2009), the Court held that N.J.S.A. 47:1A-5(g), which provides that an OPRA request be in writing and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian," authorizes a custodian to direct that a request for a government record must be transmitted only by methods specified in a public agency's form, which need not include every method of transmission mentioned in N.J.S.A. 47:1A-5(g). In that case, the public agency could prohibit requests by fax.