

PUBLIC NOTICE

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PUBLIC EMPLOYMENT RELATIONS COMMISSION

Notice of Action on Petition for Rulemaking

Unfair Practice Proceedings

Mary E. Hennessy-Shotter

N.J.A.C. 19:14

Petitioner: Charles Wowkanech, President, New Jersey State AFL-CIO.

Take notice that on December 11, 2024, the Public Employment Relations Commission (Commission) received a petition for rulemaking from the above petitioner requesting that N.J.A.C. 19:14-2.1(a) be amended to require that the Commission's Director of Unfair Practices (Director) make a complaint issuance determination within 60 days of the filing of an unfair practice charge. A notice acknowledging receipt of the petition and summarizing its contents was published in the January 21, 2025, edition of the New Jersey Register at 57 N.J.R. 212(c).

Take further notice that this petition was considered by the Commission at its regular public meeting on January 30, 2025. During such discussion, the Commission Chair noted that unfair practice charge processing times have significantly improved since the agency returned to a Director and Deputy Director of Unfair Practices model on November 1, 2022. The Chair explained that the unfair practice process includes conferences with the parties, and often includes the parties' mutually requested delays, in order to facilitate settlement. The Chair expressed that the 60-day deadline proposed by the petitioner for complaint issuance determination would be impossible to implement unless the Commission's budget were to be increased to hire additional staff for the extra workload created by the new deadline. The Chair noted that in the Responsible Collective Negotiations Act (RCNA), P.L.2021, c.11, the

Legislature amended the Employer-Employee Relations Act (Act) to provide that, for certain public employers, only unfair practice charges pursuant to N.J.S.A. 34:13A-5.4a(3) would be subject to a 60-day complaint issuance deadline. However, the Legislature did not apply that deadline to all public employers or all types of unfair practice charges. The Chair noted that the Commission received funding for the RCNA's 60-day deadline to process 5.4a(3) charges. The Chair opined that the Legislature is best suited to create new unfair practice deadlines, as it did in the RCNA. Finally, the Chair explained how the case cited by the petitioner as an example of a delayed unfair practice determination was a consolidated case involving a clarification of unit dispute and it is Commission policy to resolve such disputes before a related unfair practice charge. As thoroughly detailed in the Commission's decision in P.E.R.C. No. 2025-14, much of the delay in that case was party-driven. The Director recently issued a decision (D.R. No. 2025-3) on the clarification of unit aspect of that case after the parties' lengthy and largely successful settlement discussions that significantly reduced the number of disputed titles. Shortly thereafter, the Director issued a complaint in the unfair practice aspect of that case.

Following discussion, the Commission determined not to grant the petitioner's rulemaking petition. However, pursuant to N.J.A.C. 1:30-4.2(a)3, the Commission referred the matter for further deliberations to determine whether any unfair practice complaint issuance deadline might be beneficial and feasible for those unfair practice charges not subject to the statutory deadlines set by the RCNA. The Chair stated that, as a neutral labor relations agency, the Commission should solicit input on the AFL-CIO's rulemaking petition from other parties, including public employers/management. The Commission therefore determined that further deliberations will include notifying the Commission's "interested parties" e-mail list of the proposal so that additional input may be received from both union and management interests.

The Commission will also discuss with the petitioner whether it is interested in modifying its proposal with a lengthier complaint issuance deadline as well as reasonable exceptions.

Accordingly, pursuant to N.J.A.C. 1:30-4.2(a)3, this matter is referred for further deliberations not to exceed 90 days, i.e., by May 8, 2025. A copy of this public notice is being mailed to the petitioner and posted on the Commission's website.